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Report of the Human Rights Committee

Volume I

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Official Records • Forty-ninth Session
Supplement No. 40 (A/49/40)

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I. ORGANIZATIONAL AND OTHER MATTERS

A. States parties to the Covenant

1. As at 29 July 1994, the closing date of the fifty-first session of the Human Rights Committee, 127 States had ratified, acceded or succeeded to the International Covenant on Civil and Political Rights and 76 States had ratified or acceded to the Optional Protocol to the Covenant. Both instruments were adopted by the General Assembly in resolution 2200 A (XXI) of 16 December 1966 and opened for signature and ratification in New York on 19 December 1966. They entered into force on 23 March 1976 in accordance with the provisions of their articles 49 and 9 respectively. Also, as at 29 July 1994, 44 States had made the declaration envisaged under article 41, paragraph 1, of the Covenant, which came into force on 28 March 1979.

2. The Second Optional Protocol aiming at the abolition of the death penalty, which was adopted and opened for signature, ratification or accession by the General Assembly in resolution 44/128 of 15 December 1989, entered into force on 11 July 1991 in accordance with the provisions of its article 8. As at 29 July 1994, there were 23 States parties to the Second Optional Protocol.

3. A list of States parties to the Covenant and to the Optional Protocols, with an indication of those which have made the declaration under article 41, paragraph 1, of the Covenant, is contained in annex I to the present report.

4. Reservations and other declarations made by a number of States parties in respect of the Covenant or the Optional Protocols are set out in document CCPR/C/2/Rev.3 and in notifications deposited with the Secretary-General. By a note of 18 January 1994, the Government of Iceland notified the Secretary-General of the withdrawal of its reservation to article 8, paragraph 3 (a), of the Covenant. Similarly, by a note of 12 April 1994, the Government of Ireland notified the Secretary-General of the withdrawal of its reservation to article 6, paragraph 5, of the Covenant.

B. Sessions and agenda

5. The Human Rights Committee has held three sessions since the adoption of its last annual report. The forty-ninth session (1263rd to 1291st meetings) was held at the United Nations Office at Geneva from 18 October to 5 November 1993, the fiftieth session (1292nd to 1319th meetings) was held at United Nations Headquarters from 21 March to 8 April 1994, and the fifty-first session (1320th to 1357th meetings) was held at the United Nations Office at Geneva from 4 to 29 July 1994.

C. Membership and attendance

6. At the forty-ninth session (1273rd meeting), held on 25 October 1993, the Chairperson informed the Committee of the death of one of its members, Mr. János Fodor (Hungary). Members of the Committee expressed their sorrow at his untimely death and paid tribute to his contributions to the work of he Committee and to the promotion of human rights in general.

7. Mr. Tamás Bán (Hungary) was elected at the 13th meeting of States Parties to the Convention, held at United Nations Headquarters on 16 March 1994, to fill

the vacancy in the Committee resulting from the death of Mr. János Fodor. A list of the members of the Committee, as well as of its officers, is given in annex II to the present report.

8. All the members attended the forty-ninth and fiftieth sessions of the Committee. Mr. Bán attended only part of the fiftieth session. All the members attended the fifty-first session. Mrs. Chanet, Mr. Herndl, Mrs. Higgins and Mr. Lallah attended only part of that session.

D. Solemn declaration

9. Before assuming his functions, Mr. Tamás Bán made a solemn declaration in accordance with article 38 of the Covenant and rule 16 of the Committee's rules of procedure.

E. Working groups

10. In accordance with rules 62 and 89 of it rules of procedure, the Committee established working groups to meet before its forty-ninth, fiftieth and fifty-first sessions.

11. The working group established under rule 89 was entrusted with the task of making recommendations to the Committee regarding communications under the Optional Protocol. At the forty-ninth session, the working group was composed of Ms. Evatt, Mr. Herndl, Mr. Ndiaye, Mr. Mavrommatis and Mr. Prado Vallejo. It met at the United Nations Office at Geneva from 11 to 15 October 1993 and elected Ms. Evatt as its Chairperson-Rapporteur. At the fiftieth session, the working group was composed of Mr. Ando, Mrs. Higgins, Mr. Ndiaye, Mr. Pocar and Mr. Prado Vallejo. It met at United Nations Headquarters from 14 to 18 March 1994 and elected Mrs. Higgins as its Chairperson-Rapporteur. At the fifty-first session, the working group was composed of Mr. Bruni Celli, Mr. Dimitrijevic, Mr. Mavrommatis, Mr. Ndiaye and Mr. Sadi. It met at the United Nations Office at Geneva from 27 June to 1 July 1994 and elected Mr. Bruni Celli as its Chairperson-Rapporteur.

12. The working group established under rule 62 was mandated to prepare concise lists of issues concerning second and third periodic reports scheduled for consideration at the Committee's forty-ninth, fiftieth and fifty-first sessions; to consider any draft general comments that might be put before it; and to review the Committee's procedures under article 40 of the Covenant. Additionally, the working group that met before the fifty-first session was requested to formulate recommendations relating to the forthcoming meeting of persons chairing the human rights treaty bodies. At the forty-ninth session, the working group was composed of Mr. Aguilar Urbina, Mr. Dimitrijevic, Mr. Lallah and Mr. Sadi. It met at the United Nations Office at Geneva from 11 to 15 October 1993 and elected Mr. Lallah as its Chairperson-Rapporteur. At the fiftieth session, the working group was composed of Mrs. Chanet, Mr. Bruni Celli, Mr. Francis and Mr. Wennergren; it met at United Nations Headquarters from 4 to 18 March 1994 and elected Mr. Wennergren.as its Chairperson-Rapporteur. At the fifty-first session, the group was composed of Ms. Evatt, Mr. Aguilar Urbina, Mr. El Shafei and Mr. Wennergren. It met at the United Nations Office at Geneva from 27 June to 1 July 1994 and elected Ms. Evatt as its Chairperson-Rapporteur.

F. Other matters

1. Forty-ninth session

13. The Assistant Secretary-General for Human Rights informed the Committee of the report of the Secretary-General on the work of the Organization, submitted to the General Assembly at its forty-eighth session. 1/ Members were also briefed on recent activities of the Working Group on Detention, the Committee on the Elimination of Racial Discrimination, the Committee on the Rights of the Child and the programme of advisory services of the Centre for Human Rights.

Summary records of the forty-ninth session

14. The Committee was informed that, owing to financial difficulties experienced by the Untied Nations in recent months, interpretation could not be provided for all 30 meetings of the session and that Conference Services would be unable to provide summary records for the forty-ninth session. As a consequence of those measures, the Committee was obliged to reschedule the consideration of certain reports in order to benefit from interpretation during the dialogue with delegations of States parties, and certain urgent communications under the Optional Protocol had unfortunately to be deferred to another session. It nevertheless drew attention to the fact that the complete elimination of summary records would result in the absence of any official record of what had been said in the dialogue between the Committee and each of the States parties. A large part of the exercise would therefore be lost both for the Committee and the delegations concerned. Furthermore, without such records, there would be no archive of the jurisprudence of the Committee under the Optional Protocol. Accordingly, the Committee requested the Secretariat to contemplate any means available to produce summary records at a later stage.

15. The Committee was subsequently informed that Conference Services, at the Committee's request, was envisaging the preparation of summary records of the forty-ninth session on the basis of recorded tapes. In view of the costs involved, those summary records would, on an exceptional basis, be prepared in English only.

2. Fiftieth session

16. The Committee was informed by the representative of the Secretary-General that Ambassador José Ayala Lasso of Ecuador had been appointed United Nations High Commissioner for Human Rights by the General Assembly, pursuant to resolution 48/141 of 20 December 1994. The High Commissioner was to be responsible, inter alia, for making recommendations to competent bodies of the United Nations system for improving the promotion and protection of all human rights, for engaging all Governments in a dialogue with a view to securing respect for all human rights, for coordinating human rights activities throughout the United Nations system and, in this regard, for rationalizing, adapting, strengthening and streamlining United Nations human rights machinery in order to improve its efficiency and effectiveness.

17. Members were briefed about the recent activities of the United Nations human rights treaty bodies, particularly the Committee against Torture, which had just completed its first inquiry procedure under article 20 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Education on human rights

18. The Committee took note with particular interest of a letter addressed to it by the Assistant Secretary-General for Human Rights inviting the Committee to express its views and give its suggestions on how to ensure effective promotion and protection of human rights education, training and public information, in the light of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights.

19. The Committee pointed to the pivotal importance of adequate human rights education, training and public information, which constituted an essential condition for the accomplishment of the objectives set forth in both the Universal Declaration of Human Rights and the international covenants on human rights. Basic information on the fundamental principles and rights enshrined in those texts, as well as on the moral and philosophical concepts behind them, should thus be, in the view of the Committee, a primary objective of the forthcoming Decade on Human Rights Education. Such information should be widely disseminated by any available means and reach the largest possible audience, particularly children. In that regard, specific efforts should be made to ensure that primary and secondary school curricula include in an appropriate way such human rights education.

20. Specific training should be targeted to benefit different categories of persons or professions and relate to the interpretation and enforcement of the pertinent rights and freedoms guaranteed in the International Covenant on Civil and Political Rights. In that respect, particular attention should be given to the training of law enforcement officials (police, army, security forces and prison officers), judges, lawyers and members of other professions, such as journalists, whose activities have direct bearing on the realization of the objectives set out in the Covenant.

21. The Committee added that in implementing human rights education, training and public information programmes, careful consideration should be given to possible assistance from, and cooperation with, international, regional or national institutions, commissions or other bodies engaged in activities in the field of human rights.

Question of a possible draft third optional protocol to the Covenant

22. The Committee took note that the Subcommission on Prevention of Discrimination and Protection of Minorities in its resolution 1993/26 had requested the Committee to consider the text of a possible draft third optional protocol to the International Covenant on Civil and Political Rights.

23. The Committee noted that the purpose of the possible draft optional protocol was to add article 9, paragraphs 3 and 4, and article 14 to the list of non-derogable provisions in article 4, paragraph 2, of the Covenant. In that regard, the Committee was satisfied that States parties generally understood that the right to habeas corpus and amparo should not be limited in situations of emergency. Furthermore, the Committee was of the view that the remedies provided in article 9, paragraphs 3 and 4, read in conjunction with article 2 were inherent to the Covenant as a whole. Having this in mind, the Committee believed that there was a considerable risk that the proposed draft third optional protocol might implicitly invite States parties to feel free to derogate from the provisions of article 9 of the Covenant during states of emergency if they do not ratify the proposed optional protocol. Thus, the

protocol might have the undesirable effect of diminishing the protection of detained persons during states of emergency.

24. The Committee was also of the view that it would simply not be feasible to expect that all provisions of article 14 can remain fully in force in any kind of emergency. Thus, the inclusion of article 14 as such in the list of non-derogable provisions would not be appropriate.

25. In the light of the foregoing, the Committee considered it inadvisable to pursue the elaboration of a draft optional protocol to the Covenant with the aim of adding article 9, paragraphs 3 and 4, as well as article 14 to the list of non-derogable rights enumerated in article 4, paragraph 2, of the Covenant. The text of the recommendations submitted by the Committee to the Subcommission is contained in annex XI to the present report.

3. Fifty-first session

26. The Committee was addressed for the first time by the United Nations High Commissioner for Human Rights, Mr. José Ayala Lasso. The Committee welcomed the affirmed intention of the High Commissioner to establish harmonious and fruitful working relations with all human rights treaty bodies and to support them as much as possible so as to enhance their effectiveness. It also appreciated the intention of the High Commissioner to place special emphasis on the importance of compliance by all States with the obligations they have undertaken in ratifying or acceding to international human rights instruments. The Committee affirmed its readiness fully to support the High Commissioner in the fulfilment of his mandate.

G. Staff resources

27. The greater complexity and more intensive pace of the Committee's operations, resulting from the increased number of States parties to the Covenant as well as from qualitative changes in the Committee's methods of work, have added significantly to the workload of the Secretariat in providing substantive servicing to the Committee in relation to the monitoring of States parties' reports. The number of communications submitted to the Committee under the Optional Protocol has also grown markedly (see chap. VIII, sect. B). Accordingly, the Committee requests the Secretary-General to take the necessary steps to ensure a substantial increase in the specialized staff assigned to service the Committee both in relation to the monitoring of States parties' reports and the Optional Protocol.

H. Publicity for the work of the Committee

28. The Chairperson held press briefings during each of the Committee's three sessions. The Committee noted with satisfaction the level of interest in its activities shown by non-governmental organizations, but was concerned by the lack of support for its work shown by the media.

29. The Committee noted that the Yearbook (Official Records of the Human Rights Committee) has been published up to 1988. The Committee was informed orally that manuscripts for the Yearbook for 1987 (vol. II), 1987-1988 (vol. II) and 1988-1989 (vol. II) had been submitted for processing. In the light of the

existing resources, the Committee reiterated its view that the publication of the Yearbook should be accelerated to eliminate the still existing backlog.

30. The Committee urged that work on volume III of the Human Rights Committee's selected decisions under the Optional Protocol be accelerated with a view to eliminating the existing backlog as soon as possible. In future, they should be published on a regular and timely basis.

I. Adoption of the report

31. At its 1356th and 1357th meetings, held on 28 and 29 July 1994, the Committee considered the draft of its eighteenth annual report, covering its activities at the forty-ninth, fiftieth and fifty-first sessions, held in 1993 and 1994. The report, as amended in the course of the discussion, was unanimously adopted by the Committee.

II. ACTION BY THE GENERAL ASSEMBLY AT ITS FORTY-EIGHTH SESSION AND BY THE COMMISSION ON HUMAN RIGHTS AT ITS FIFTIETH SESSION

32. At its 1314th meeting, held on 6 April 1994, the Committee considered the agenda item in the light of the relevant summary records of the Third Committee, General Assembly resolutions 48/119 and 48/120 of 20 December 1993 and Commission on Human Rights resolutions 1994/15 and 1994/19 of 25 February 1994.

33. In relation to the Committee's annual report, submitted under article 45 of the Covenant, and the discussions held in the Third Committee at its 36th to 39th meetings, from 17 to 19 November 1993, the Committee noted with particular satisfaction the favourable comments of the Assembly on its initiatives designed to improve its working methods under article 40 of the Covenant, notably in relation to the formulation of comments by the Committee on each State report.

34. With reference to the discussion within the General Assembly relating to the effective functioning of human rights treaty bodies, the Committee noted with satisfaction that the Assembly had once again underlined the importance of compliance by States parties with their reporting obligations, as well as the importance of the work of the supervisory bodies established under the various human rights treaty bodies. The Committee took note of statements made by a number of delegations relating to the necessity of alleviating the reporting obligations of States parties. It took note of the fact that States that were parties to various international human rights instruments might face difficulties in complying with their reporting obligations. However, it felt that the suggested possibility of allowing States parties to consolidate reports due under various instruments into a single comprehensive report would raise serious difficulties, especially with respect to the compatibility of such reports with both the provisions of each instrument concerned and the aim and purpose of the reporting procedure itself. It also disagreed with proposals made relating to the possible consideration of the situation of human rights in a country without a report.

35. The Committee discussed the relevant resolutions adopted by the Commission on Human Rights at its forty-ninth session and expressed strong agreement, in particular with the recommendation that countries having difficulties in introducing changes in their legislation that might be necessary for the ratification of international instruments on human rights should be encouraged to request appropriate support from the advisory services and technical assistance programmes of the Centre for Human Rights. The Committee expressed satisfaction that the Commission had renewed its request to have the recent periodic reports of States parties to treaty-monitoring bodies, the summary records of Committee discussions pertaining to them, as well as concluding observations and final comments of the treaty bodies made available in United Nations information centres in the countries concerned. It also welcomed the renewed request that high priority be given to the recommendations of the Task Force on Computerization of the Work of the Treaty Bodies and that generous voluntary contributions be made to cover the initial one-time cost of the proposed system.

III. METHODS OF WORK OF THE COMMITTEE UNDER ARTICLE 40 OF THE COVENANT: OVERVIEW OF PRESENT WORKING METHODS

36. This section of the report of the Committee aims at providing a concise and up-to-date overview of the methods utilized by the Human Rights Committee in carrying out its work relating to the consideration of reports submitted by States parties under article 40 of the International Covenant on Civil and Political Rights. It highlights some of the modifications introduced in recent years and is designed in particular to make the Committee's current procedure more transparent and readily accessible to all, so as to assist States parties and others interested in the implementation of the Covenant.

37. The consideration of reports submitted under article 40 of the Covenant takes place in public meetings and in the presence of representatives of the State party concerned. The purpose of such meetings is to establish a constructive dialogue between the Committee and the State party. The main function of the Committee is to assist State parties in fulfilling their obligations under the Covenant, to make available to them the experience the Committee has acquired in its examination of other reports and to discuss with them various issues relating to the enjoyment of the rights enshrined in the Covenant. In fulfilling this function, members of the Committee pose questions to the representatives of the State party in order to obtain information or clarification on any legal or factual matters or factors that may affect the implementation of the Covenant. The representatives of States that have submitted their initial reports are then given time to prepare answers to questions posed and comments raised by members of the Committee. On the other hand, in dealing with periodic reports, the Committee identifies in advance the various matters that might most usefully be discussed with the representatives of the State party.

A. Lists of issues to be taken up in connection with the consideration of periodic reports of States parties

38. The Committee originated the practice of preparing lists of issues in connection with the consideration of second periodic reports in 1983. 2/ For this purpose, at each of its sessions it establishes a working group consisting of four members, which meets during the week preceding each of the Committee's three sessions held during the year. The lists are divided into chapters, each covering a group of related articles of the Covenant. The lists, which are considered by the Committee as non-exhaustive, are transmitted to the representatives of the reporting States. During the consideration of the State report, chapters are treated one by one in a manner providing for immediate replies by the representatives of the State party. The members of the Committee have the opportunity to seek additional clarifications under each issue and to ask supplementary questions.

39. At its thirty-fifth session, in March 1989, the Committee adopted a methodology 3/ for considering third periodic reports similar to that used for second periodic reports, but stressed the need to concentrate on developments that occurred after the submission of the second periodic report and to complete the dialogue in no more than three meetings, unless otherwise decided. Such lists do not include issues extensively dealt with during the consideration of the previous report, except those identified as giving rise to concern.

40. On the basis of further experience, at its forty-third session, 4/ in October 1991, the Committee decided that in order to make better use of its time during the dialogue with States parties, the number of chapters included in the lists of issues should be reduced to three or four and that the issues themselves should be more concise and precise.

B. Comments of the Committee at the end of the consideration of reports of States parties

41. At its forty-fourth session (March/April 1992), 5/ the Committee decided to adopt comments reflecting the views of the Committee as a whole on each State party report considered during a given session. Such comments are additional to, and do not replace, comments made by individual members at the conclusion of the consideration of a report. A rapporteur is selected in each case to draft a text, in consultation with the Chairman and other members, for adoption by the Committee in closed meeting. Such comments are dispatched to the State party concerned as soon as practicable, published in a separate document (issued in the CCPR/C/79 series) and included in the annual report of the Committee. Comments drafted during a given session are normally adopted by the Committee at the end of the session.

42. The Committee's comments provide a general evaluation of a State party's report and of the dialogue with the delegation, and take note of factors and difficulties that affect the implementation of the Covenant, of positive development that may have occurred during the period under review and of specific issues of concern relating to the application of the provisions of the Covenant. They include suggestions and recommendations to the State party concerned. In the following periodic report, States parties are requested, on a systematic basis, to inform the Committee about the measures they have adopted to follow up on the Committee's comments, and are reminded, when appropriate, of the availability of advisory services.

43. During its forty-ninth session, the Committee, taking into account the experience gained in adopting comments at the end of the consideration of States parties' reports, formalized this practice by revising rule 70 of its rules of procedure. 6/ Paragraph 3 of that rule was amended to read as follows 7/ (see also annex VI):

> "3. On the basis of its examination of the reports and information supplied by a State party, the Committee, in accordance with article 40, paragraph 4, of the Covenant, may make such comments as it may consider appropriate".

44. At its forty-ninth session, the Committee originated the practice of informing State party representatives, at the conclusion of the consideration of the country's report, that the comments would be made available to them at the last meeting of the Committee's session in the language adopted and made public immediately afterwards.

C. The Committee's procedures in dealing with emergency situations

45. Since April 1991 (forty-first session), and in the light of recent or current events indicating that the enjoyment of human rights protected under the Covenant has been seriously affected in certain States parties, the Committee

has resorted to the practice of requesting the States parties concerned to submit urgently reports on the situation (generally within three months). Such decisions have been taken regarding, in chronological order, Iraq (11 April 1991), 8/ the Federal Republic of Yugoslavia (4 November 1991), 9/ Peru (10 April 1992), 10/ Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (6 October 1992), 11/ Angola and Burundi (29 October 1993) (see para. 61). In most cases the States concerned complied with the Committee's request and participated in the consideration of the report.

46. Additionally, the Committee agreed that, if an exceptional situation arises between sessions, the Chairperson, acting in consultation with the members, may direct a request for the submission, by the State party concerned, of a report under article 40, paragraph 1 (b), of the Covenant. That procedure was implemented in the cases concerning Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (see para. 45). Accordingly, at its 1233rd meeting (forty-seventh session), held on 8 April 1993, the Committee amended its rules of procedure by inserting the following new paragraph 2 in rule 66:

> "2. Requests for submission of a report under article 40, paragraph 1 (b), of the Covenant may be made in accordance with the periodicity decided by the Committee or at any other time the Committee may deem appropriate In the case of an exceptional situation when the Committee is not in session, a request may be made through the Chairman, acting in consultation with the members of the Committee". 12/

47. At its 1274th meeting (forty-ninth session), on 25 October 1993, the Committee decided that, where the consideration of a State report submitted under article 40 of the Covenant revealed a grave human rights situation, it could request the Secretary-General to inform the competent organs of the United Nations, including the Security Council.

D. Implementation of the Covenant in new States that constituted parts of former States parties to the Covenant

48. In its decision of 7 October 1992, requesting the Governments of Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia to submit reports on specific issues in respect of persons and events under their jurisdiction, the Committee emphasized that all the peoples within the territory of a new State that constituted a part of the former Yugoslavia were entitled to the guarantees of the Covenant. In its comments adopted at the end of the consideration of the report of Bosnia and Herzegovina, the Committee further noted that by complying with the Committee's request to submit a report, and by sending a delegation before it, the Republic of Bosnia and Herzegovina had confirmed its succession to the obligations undertaken under the Covenant by the former Socialist Federal Republic of Yugoslavia in respect of the territory forming part of the Republic of Bosnia and Herzegovina. It recommended that the Republic of Bosnia and Herzegovina formalize its succession to the Covenant by submitting the appropriate notifications to the Secretary-General. 13/ Subsequently, on 1 September 1993, the instruments of succession of the Republic of Bosnia and Herzegovina to the Covenant, with effect from 6 March 1992, were received by the Secretary-General.

49. At its forty-seventh session, in March/April 1993, the Committee envisaged, in broader terms, the problems raised in connection with the implementation of the Covenant in former States parties to the Covenant. It considered that all the peoples within the territory of a former State party to the Covenant remained entitled to the guarantees of the Covenant, and that, in particular, Armenia, Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, the former Yugoslav Republic of Macedonia, Turkmenistan and Uzbekistan were bound by the obligations under the Covenant as from the dates of their independence. Consequently, it noted that reports under article 40 of the Covenant became due one year after that date and requested, in notes verbales dated 28 May 1993 addressed to the Ministers for Foreign Affairs of those States, that such reports be submitted to it. 14/ No reports have yet been sent to the Committee in reply to that request. However, since the closure of the Committee's forty-seventh session, Armenia, Georgia and the former Yugoslav Republic of Macedonia acceded to the Covenant.

E. General comments

50. The practice of preparing general comments on selected articles of or issues arising from the Covenant was initiated by the Committee in 1981, after it had acquired considerable experience in examining State reports. General comments draw attention to certain aspects of the Covenant but do not purport to be limitative or to attribute any priority among the different aspects in terms of implementation. They are intended to make the Committee's experience available for the benefit of all States parties, so as to promote more effective implementation of the Covenant; to draw their attention to insufficiencies disclosed by a large number of reports; to suggest improvements in the reporting procedure to clarify the requirements of the Covenant; and to stimulate the activities of States parties and international organizations in the promotion and protection of human rights. General comments are also intended to be of interest to other States, especially those preparing to become parties to the Covenant and, generally, to strengthen cooperation among States in the universal promotion and protection of human rights. To date, the Committee has adopted 23 general comments, which can be found in documents HRI/GEN/1 and CCPR/C/21/Rev.1 and Add.1-5 (see also paras. 371-373 and annex V).

F. Overdue reports

51. The timely submission of reports under article 40 of the Covenant is fundamental for the effective discharge by the Committee of its functions under the Covenant. Such reports form the basis for the dialogue between the Committee and the States parties and delays result in the interruption of the implementation process. Yet, serious delays in the submission of reports by States parties have occurred throughout the period since the Committee's establishment. The cumulative burden of producing reports to several international human rights treaty bodies, the insufficient awareness that reporting is an obligation which States parties are required to fulfil under article 40 of the Covenant, the shortage of qualified government staff, the lack of an efficient administrative structure and of coordination between different administrative bodies dealing with similar issues and the lack of a political will are frequently cited as contributing factors for delays.

52. Over the years, the Committee has resorted to various actions to improve compliance by States parties with their reporting obligations under article 40 of the Covenant. Written reminders are dispatched twice a year to States

parties whose reports are overdue, defaulting States parties are listed in the Committee's annual reports to the General Assembly, the attention of the meetings of States parties has on some occasions been drawn to the gravity of the situation; 15/ members of the Bureau are regularly requested to contact Permanent Representatives of States parties on the Committee's behalf, and the Chairman of the Committee has dispatched special letters to the Foreign Ministers of States parties whose reports have been overdue for a long period. In one case, a member of the Committee visited one of the States parties to provide expertise and advice, with a view to facilitating the discharge of its reporting obligations.

53. Despite those efforts, the situation has continued to worsen over the years, seriously undermining the objectives of the Covenant and hampering the ability of the Committee to monitor the implementation of the Covenant's provisions in the State party concerned. As at 29 July 1994, a total of 93 reports - 20 initial, 23 second periodic, 37 third periodic, and 13 fourth periodic reports, involving a total of 75 States parties, were outstanding.

G. Format of the annual report of the Committee under article 45 of the Covenant

54. At its 1314th and 1315 meetings, held on 6 April 1994, the Committee discussed various ways and means to ensure the widest possible dissemination of information on its activities under the Covenant, particularly following recent modifications in the Committee's procedures under article 40 of the Covenant. It referred, thereby, to the adoption of the comments of the Committee at the end of the consideration of States parties' reports and of special decisions regarding the situation of human rights in specific countries. Those important developments had generally remained unnoticed owing mainly to the inadequacy of the format of the Committee's annual report to the General Assembly.

55. It was felt that the annual report was excessively long and cumbersome, mainly as a result of the inclusion of summaries of the examination of States parties' reports based exclusively on summary records. Developments in the Committee's procedures under article 40 and the Optional Protocol remained insufficiently highlighted for that reason. It was observed that since summaries relating to the consideration of reports at the October and March sessions were adopted only at the July session, they often were not in close agreement with the "concluding comments" that had been adopted several months earlier, immediately after the consideration of a State party's report. It was further noted that if the current format of the annual report were to be retained, future developments relating to the follow-up of views adopted under the Optional Protocol would remain largely unnoticed. The Committee also noted that, pursuant to recommendations of the persons chairing human rights treaty bodies concerning improved information and publicity for the work of the treaty bodies, the Committee on Economic, Social and Cultural Rights, the Committee against Torture and the Committee on the Rights of the Child decided no longer to request the preparation of summaries of the consideration of country reports and to include in their annual reports only the "comments" adopted at the end of the consideration of country reports.

56. In the light of the foregoing, the Committee decided, at its 1314th meeting, held on 6 April 1994, to discontinue, for the time being, the practice of preparing summaries of the consideration of States parties' reports for inclusion in the Committee's annual report. The section in the annual report dealing with the consideration of States parties' reports should

henceforth only refer to the meetings at which the report was considered, followed by the text of the "comments" of the Committee. At its fifty-first session, modifications were agreed upon regarding the way overdue reports are referred to in the annex to the report and the elimination of the agendas adopted at the various sessions from its annexes.

IV. SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

57. Under article 2, paragraph 1, of the International Covenant on Civil and Political Rights, each State party undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized and enumerated in Part III of the Covenant. In connection with this provision, article 40, paragraph 1, of the Covenant requires States parties to submit reports on the measures adopted and the progress achieved in the enjoyment of the various rights, and on any factors and difficulties that may affect the implementation of the Covenant. States parties undertake to submit reports within one year of the entry into force of the Covenant for the States parties concerned and thereafter whenever the Committee so requests. In order to assist States parties in submitting reports, the Human Rights Committee approved, at its second session, general guidelines regarding the form and contents of initial reports. 16/

58. Furthermore, in accordance with article 40, paragraph 1 (b), of the Covenant, at its thirteenth session, the Committee adopted a decision on periodicity requiring States parties to submit subsequent reports to the Committee every five years. 17/ At the same session, the Committee adopted guidelines regarding the form and contents of periodic reports from States parties under article 40, paragraph 1 (b), of the Covenant. 18/

59. At its thirty-ninth session, the Committee adopted an amendment to its guidelines for the submission of initial and periodic reports relating to reporting by States parties on action taken in response to the issuance by the Committee of views under the Optional Protocol. 19/ At its forty-second session, the Committee revised its general guidelines for the submission of initial and periodic reports to take into account the consolidated guidelines for the initial part of the reports of States parties to be submitted under the various international human rights instruments, including the Covenant (HRI/CORE/1). 20/

A. Reports submitted by States parties under article 40 of the Covenant during the period under review

60. At its forty-ninth session, the Committee noted that the initial report of Slovenia and the second periodic report of El Salvador, as well as additional information to the third periodic report of Morocco, had been received. At its fiftieth session, it took note of the submission of the initial reports of Azerbaijan, Nepal and Paraguay, the second periodic reports of Argentina and Togo and the third periodic report of New Zealand. At its fifty-first session, the Committee was informed that the initial report of the United States of America, the third periodic report of Sri Lanka and the fourth periodic reports of Spain and Ukraine had been received.

B. Special decisions by the Human Rights Committee concerning reports of particular States

61. In view of the special difficulties encountered by Angola and Burundi in the implementation of the Covenant, the Committee adopted, at its 1281st meeting (forty-ninth session), held on 29 October 1994, the following special decisions:

"Burundi

"The Human Rights Committee,

"Taking into consideration recent and continuing events in Burundi concerning human rights protected under the International Covenant on Civil and Political Rights,

"Acting under article 40, paragraph 1 (b) of the Covenant,

"1. Decides to request the Government of Burundi to submit not later than 31 January 1994 a report, if necessary in the form of a summary, dealing, in particular, with the application of articles 4, 6, 7, 9, 12 and 25 of the Covenant during the present period, so that it may be considered by the Committee at its fiftieth session, to be held from 21 March to 8 April 1994;

"2. Requests the Secretary-General to bring the present decision to the attention of the Government of Burundi."

"Angola

"The Human Rights Committee,

"Noting that the initial report of Angola should have been submitted by 9 April 1993,

"Taking into consideration recent and continuing events in Angola concerning human rights protected under the International Covenant on Civil and Political Rights,

"Acting under article 40, paragraph 1 (b) of the Covenant,

"1. Decides to request the Government of Angola to submit its initial report without delay, so that it may be considered by the Committee at its fiftieth session, to be held from 21 March to 8 April 1994, and, in any event, to submit the said report not later than 31 January 1994, if necessary in the form of a summary, dealing, in particular, with the implementation of articles 4, 6, 7, 9, 12 and 25 of the Covenant during the present period;

"2. Requests the Secretary-General to bring the present decision to the attention of the Government of Angola."

V. STATES THAT HAVE NOT COMPLIED WITH THEIR OBLIGATIONS UNDER ARTICLE 40

Forty-ninth session

62. In view of the growing number of outstanding State party reports, the Committee decided to send reminders (contained in notes verbales dated 10 December 1994) to the Governments of Albania, Benin, Brazil, Cambodia, Côte d'Ivoire, Croatia, Equatorial Guinea, Estonia, Gabon, Grenada, Guatemala, Israel, Lithuania, Nepal, Seychelles, Somalia, Switzerland and Zimbabwe, whose initial reports were overdue. In addition, the Committee decided to send reminders to the Governments of the following States parties: Argentina, Bolivia, Central African Republic, Congo, Croatia, Democratic People's Republic of Korea, Gabon, Gambia, Guyana, Jamaica, Kenya, Lebanon, Mali, Nepal, Netherlands (with respect to the Netherlands Antilles), New Zealand (with respect to the Cook Islands), Philippines, San Marino, Saint Vincent and the Grenadines, Sudan, Suriname, Syrian Arab Republic, Viet Nam and Zambia, whose second periodic reports were overdue; to Australia, Austria, Barbados, Bolivia, Central African Republic, Democratic People's Republic of Korea, Denmark, France, Gambia, Guinea, Guyana, India, Jamaica, Kenya, Lebanon, Madagascar, Mali, Mauritius, Netherlands, Nicaragua, Panama, Peru, Portugal, Rwanda, Saint Vincent and the Grenadines, Sri Lanka, Suriname, Syrian Arab Republic, Trinidad and Tobago and Zaire, whose third periodic reports were overdue; and to Belarus, Dominican Republic, Ecuador, Germany, Madagascar, Mauritius, Panama, Uruguay and Yugoslavia, whose fourth periodic reports were overdue.

63. In view of the special difficulties encountered by the Russian Federation in the implementation of the Covenant, the Committee decided to send a special reminder urging it to submit its fourth periodic report as rapidly as possible. The text of the letter, dated 5 November 1993, from the Committee's Chairperson to the Minister for Foreign Affairs of the Russian Federation is reproduced in annex VII to the present report. In a note verbale dated 17 December 1993, the Permanent Mission of the Russian Federation informed the Committee that, in view of the fact that the Constitution had been approved in the referendum held on 12 December 1993 and that elections to the Federation Council had only recently taken place, the fourth periodic report of the Russian Federation would be submitted during the first half of 1994.

Fiftieth session

64. The Committee agreed that members of the Bureau should meet in New York with the Permanent Representatives of all States parties whose initial or periodic reports had been overdue for more than three years. Accordingly, contacts were made with the Permanent Representatives of Albania, Angola, Bolivia, Burundi, the Congo, Croatia, the Democratic People's Republic of Korea, Denmark, Equatorial Guinea, Estonia, Gabon, Grenada, Guyana, Israel, Jamaica, Jordan, Kenya, Lithuania, Mali, Mauritius, the Netherlands, Somalia, the Sudan, Suriname, the Syrian Arab Republic, Trinidad and Tobago and Zambia. It was not possible to establish contact with the Permanent Representatives of the Central African Republic, the Gambia, Lebanon, Zaire and Zimbabwe.

65. In addition, the Committee decided to send reminders (contained in notes verbales dated 15 June 1994) to the Governments of Albania, Benin, Brazil, Cambodia, Côte d'Ivoire, Croatia, Estonia, Gabon, Grenada, Guatemala, Equatorial Guinea, Haiti, Israel, Lithuania, Seychelles, Somalia, Switzerland and Zimbabwe, whose initial reports were overdue. Reminders were also sent to the Governments

of the following States parties: Bolivia, Central African Republic, Congo, Democratic People's Republic of Korea, Equatorial Guinea, Gabon, Gambia, Guyana, Jamaica, Kenya, Lebanon, Mali, Netherlands (with respect to the Netherlands Antilles), Niger, Philippines, Saint Vincent and the Grenadines, San Marino, Sudan, Suriname, Syrian Arab Republic, Viet Nam and Zambia, whose second periodic reports were overdue; to Australia, Austria, Barbados, Central African Republic, Democratic People's Republic of Korea, Denmark, France, Gambia, Guyana, India, Jamaica, Kenya, Lebanon, Madagascar, Mali, Mauritius, Netherlands, Nicaragua, Panama, Peru, Portugal, Saint Vincent and the Grenadines, Sri Lanka, Suriname, Syrian Arab Republic, Trinidad and Tobago, United Republic of Tanzania, Venezuela, Viet Nam and Zaire, whose third periodic reports were overdue; and to Belarus, Ecuador, Dominican Republic, Germany, Lebanon, Madagascar, Mauritius, Panama, Uruguay and Yugoslavia, whose fourth periodic reports are overdue.

Fifty-first session

66. After reviewing the situation with respect to the late submission both of initial and periodic reports, the Committee noted the increasing number of overdue reports, despite many appeals and reminders (see paras. 51-53 and annex III). The Committee believes it is its obligation to express its serious concern about the fact that so many States parties are in default of their obligations according to the Covenant.

67. Noting that this trend seriously impedes its ability to monitor the implementation of the Covenant, the Committee decided, at its 1325th meeting, held on 6 July 1994, to mention in the core of its report to the General Assembly the following States parties that have more than one report overdue. The Committee wishes to reiterate that these States are in serious default of their obligations under article 40 of the Covenant.

State party	Type of report	Date due	Number of reminders sent
Gabon	initial	20 April 1984	21
	second	20 April 1989	10
	third	20 April 1994	1
Syrian Arab Republic	second	18 August 1984	21
	third	18 August 1989	10
Gambia	second	21 June 1985	19
	third	21 June 1990	8
Lebanon	second	21 March 1986	18
	third	21 March 1988	13
	fourth	21 March 1993	1
Suriname	second	2 August 1985	18
	third	2 August 1990	8
Kenya	second	11 April 1986	17
	third	11 April 1991	7
Mali	second	11 April 1986	17
	third	11 April 1991	7

State party	Type of report	Date due	Number of reminders sent
Jamaica	second	1 August 1986	15
	third	1 August 1991	6
Guyana	second	10 April 1987	15
	third	10 April 1992	5
Democratic People's Republic of Korea	second	13 December 1987	13
	third	13 December 1992	3
Equatorial Guinea	initial	24 December 1988	11
	second	24 December 1993	1
Central African Republic	second	9 April 1989	10
	third	7 August 1992	4
Mauritius	third	18 July 1990	8
	fourth	4 November 1993	2
Saint Vincent and the Grenadines	second	31 October 1991	6
	third	8 February 1993	3
Panama	third	31 March 1992	5
	fourth	6 June 1993	2
Madagascar	third	31 July 1992	4
	fourth	3 August 1993	2

VI. CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

68. At its 1314th meeting (fiftieth session) (see paras. 54 to 56), the Committee decided to discontinue its practice of including in its annual report summaries of the consideration of reports submitted by States parties under article 40 of the Covenant. In accordance with that decision, the annual report shall contain, inter alia, the comments adopted by the Committee at the end of the consideration of States parties' reports. Accordingly, the following paragraphs arranged on a country-by-country basis in the sequence followed by the Committee in its consideration of the reports contain the comments adopted by the Committee with respect to the States parties' reports considered at its forty-ninth, fiftieth and fifty-first sessions.

A. Iceland

69. The Committee considered the second periodic report of Iceland (CCPR/C/46/Add.5) at its 1266th to 1268th meetings, held on 19 and 20 October 1993, and adopted 21/ the following comments:

1. Introduction

70. The Committee expresses its appreciation to the State party for its elaborate and thorough report, which has been prepared in accordance with the Committee's guidelines, and for engaging through a highly qualified delegation in an extremely constructive dialogue with the Committee. It notes with satisfaction that the information provided in the report, and that orally submitted by the delegation in reply to both written and oral questions, enabled the Committee to obtain a comprehensive view of Iceland's actual compliance with the obligations undertaken under the International Covenant on Civil and Political Rights. The Committee, however, regrets that the second periodic report, which was due in 1987, was submitted with considerable delay.

2. Factors and difficulties affecting the application of the Covenant

71. The Committee finds that there are no important difficulties that may affect the effective implementation of the Covenant's provisions by the Government of Iceland.

3. Positive aspects

72. The Committee welcomes the efforts undertaken by the Government of Iceland since the submission of the initial report in 1981 in order to effectively guarantee the protection of rights set forth in the Covenant. Of particular importance in this respect were the adoption and the entry into force on 1 July 1992 of a new law resulting in the total separation of judicial and executive power, as well as comprehensive legislation concerning extensive changes in the judicial system and rules governing judicial procedure; the establishment in 1988, in accordance with Law No. 13/1987, of the Office of

Ombudsman of the Althing (Parliament); and the revisions of the Equal Status Law of 1976.

73. In this connection, the Committee notes with satisfaction that Law No. 28/1991 on Equal Status and Equal Rights of Women and Men has contributed towards equal rights of men and women in general, although there is still room for improvement in practice with regard to the remuneration for work. The Committee also notes with interest the establishment of the Equal Rights Council with the aim of ensuring the proper implementation of the Equal Rights Law and of recommending proposals to the authorities regarding gender equality. The announced establishment of Equal Rights Committees at the municipal level throughout the country to provide counsel to municipal governments would further serve the promotion of the equality of rights of men and women.

4. Principal subjects of concern

74. The Committee notes with concern that the Constitution of Iceland is lacking in clear and comprehensive provisions dealing with the protection of all fundamental human rights as recognized in the numerous international human rights treaties, in particular in the International Covenant on Civil and Political Rights, to which Iceland is a party. The absence is not met by reliance on unspecified unwritten fundamental rules. This does not adequately meet the requirements of article 2, paragraph 2, of the Covenant, which enjoins States parties to take such legislative or other measures which may be necessary to give effect to the rights recognized in the Covenant. No matter how effective the Icelandic constitutional tradition of relying on unwritten fundamental rules and principles may be, codification of the rules governing the protection of human rights is an important element of protection.

75. In this connection, the Committee expresses its concern over the status of the Covenant within the national legal order and the lack of clarity concerning the resolution of eventual conflicts between the Covenant and the Constitution and other domestic legislation.

76. The Committee also expresses its concern over the apparent preference accorded, in the domestic law as well as in legal doctrine and jurisprudence, to the European Convention for the Protection of Human Rights and Fundamental Freedoms as against the International Covenant on Civil and Political Rights. In that regard, the attention of the State party is drawn to the fact that the latter guarantees a number of human rights not protected under the former and that permissible restrictions are less broad-based.

77. The Committee hopes that the pending legislation relevant to article 13 will be formulated in such a way as to allow the reservation thereunder to be withdrawn.

78. The Committee notes that some other requirements of the Covenant are not fully met, in particular those referred to in articles 4, 9, paragraphs 3 and 4, 19 and 24, paragraph 2. The Committee also notes that confessions made under duress are not clearly excluded as evidence, that inhuman and degrading punishment is still possible, and that there is still discrimination against children born out of wedlock and in favour of public officials. The possibility of a sentence of up to one year's imprisonment for libel presents problems in relation to article 19; and the limitation imposed upon naturalized citizens in the retention of their names of origin raises issues under article 26. The

attention of the State party has also been drawn to the various General Comments adopted by the Committee.

5. Suggestions and recommendations

79. The Committee recommends that the State party take appropriate measures to incorporate provisions of the Covenant into domestic law and ensure that the Covenant be treated on an equal footing with regional human rights instruments, both in legal and practical terms.

80. In that context, the Committee recommends that the Government of Iceland consider amending the national Constitution in order to reflect adequately the provisions of the International Covenant on Civil and Political Rights and other international human rights treaties ratified by Iceland. In the meantime, the Committee strongly recommends that the Covenant be included, by way of appropriate amendments, in the draft law envisaging the incorporation of the European Convention for the Protection of Human Rights and Fundamental Freedoms into domestic law, at present before the Althing (Parliament), or in a similar legislative act.

81. The Committee also recommends that the Government review the continuing need for any reservation, with a view to withdrawing them.

82. The Committee emphasizes that further measures should be taken to ensure that the provisions of the Covenant are more widely disseminated, particularly among the legal profession and members of the judiciary.

83. The Committee strongly recommends that the reporting obligations of the State party under article 40 of the Covenant be strictly observed and that the third periodic report be submitted within the time-limit to be determined by the Committee.

B. Norway

84. The Committee considered the third periodic report of Norway (CCPR/C/70/Add.2) at its 1270th to 1272nd meetings, held on 21 and 22 October 1993, and adopted 22/ the following comments:

1. Introduction

85. The Committee welcomes the timely submission of the third periodic report of Norway. The report contains detailed information on laws and practices relating to the implementation of the Covenant and is in full conformity with the Committee's guidelines. The Committee appreciates that the State party has envisaged both the report and the dialogue with the Committee as an unbroken continuation of the examination of the initial and second periodic reports. The Committee is also grateful for the oral responses provided by the high-ranking delegation and considers that the dialogue with the State party has been most fruitful and constructive.

86. The Committee thanks the State party for the core document (HRI/CORE/1/Add.6), drawn up in accordance with the consolidated guidelines for

the initial part of States party reports to be submitted under the various international human rights instruments (HRI/1991/1).

2. Factors and difficulties affecting the implementation of the Covenant

87. The Committee notes the emergence in certain parts of the population of Norway of a trend towards intolerance against foreigners, particularly asylum-seekers and migrant workers. With this exception, the Committee notes that there are no important difficulties affecting the implementation of the Covenant in Norway.

3. Positive aspects

88. The Committee takes note, with particular appreciation, of the level of achievement in the respect of human rights in Norway. Among the positive developments that have been realized since the consideration of the second periodic report in 1988, the Committee notes, inter alia, the ratification of the Second Optional Protocol to the Covenant on the abolition of the death penalty and the efforts undertaken with regard to the promotion of greater public awareness of the provisions of the Covenant and the Optional Protocols, particularly in the area of human rights education in schools and universities and through the organization of training courses for members of the police and other law enforcement officials. While noting that it is still not possible to appeal against the reversal by the Court of Appeal of an acquittal by a lower jurisdiction, the Committee also appreciates the efforts made towards the withdrawal of Norway's reservation in connection with article 14, paragraph 5, of the Covenant.

89. The Committee notes with satisfaction that independent investigative bodies have been set up to inquire into complaints of offences by members of the police and that their reports have been followed up by a number of prosecutions. It further commends the devolution of responsibility to the Sami Assembly (Sametinget) with regard to matters affecting the life and culture of members of the Sami community and notes with satisfaction that the Sami language may be used in contacts with public bodies and before the courts.

90. With respect to equality and non-discrimination, developments relating to the granting to foreigners of the right to vote in local elections and to hold local office, as well as legislative steps relating to the registration of partnership of the same sex, are welcomed by the Committee. The continuing improvements in the legal and de facto equality of women and the strengthened measures against domestic violence and sexual abuse of children were also noted with satisfaction.

4. Principal subjects of concern

91. Despite efforts undertaken with regard to the status of the Covenant within domestic law, the Committee regrets that the opportunity has not been taken to fully incorporate the provisions of the Covenant into the Constitution, or otherwise to confer on it a higher status than ordinary legislation. The Committee also notes that certain obsolete laws still exist in Norway, in particular with regard to penal sanctions against defamation.

92. The Committee expresses its concern over the vagueness of the criterion of "compelling social considerations", under which a foreign national's right to choose his or her place of residence may be restricted, and its conformity with article 12 of the Covenant.

93. The Committee emphasizes that article 2 of the Constitution, which provides that individuals professing the Evangelical-Lutheran religion are bound to bring up their children in the same faith is in clear contradiction to article 18 of the Covenant.

94. The Committee notes that the authorities have included multicultural issues in education, but is concerned that they have approached these issues only by reference to articles 2 and 26 of the Covenant. This gives a narrow interpretation of article 27 of the Covenant relating to the rights of persons belonging to minorities. The Committee has observed, in this regard, that the rights conferred under article 27 of the Covenant on individuals who are members of a minority avail all such individuals on a State party's territory and must not, as enjoined by article 2, paragraph 1, of the Covenant, be restricted to nationals.

5. Suggestions and recommendations

95. The Committee recommends that further measures be adopted to repeal outdated provisions in the Constitution or in laws relating to the freedom of conscience and religion or the freedom of expression and bring them into line with the provisions of the Covenant.

96. The Committee recommends that a careful study of the recently enacted amendment to the Criminal Procedure Act be undertaken with regard to the scope of article 14, paragraph 5, of the Covenant, with a view to withdrawing the reservation made in that connection.

97. The Committee recommends that the laudable efforts already made in connection with the promotion of greater public awareness of the provisions of the Covenant and the Optional Protocols be further pursued.

C. Japan

98. The Human Rights Committee considered the third periodic report of Japan (CCPR/C/70/Add.1 and Corr.1 and 2) at its 1277th to 1280th meetings, held on 27 and 28 October 1993, and adopted 23/ the following comments:

1. Introduction

99. The Committee commends the Government of Japan on its excellent report, which has been prepared in accordance with the Committee's guidelines for the presentation of State party reports and submitted on schedule. The Committee appreciates, in particular, the participation, in its consideration of the report, of a competent delegation from the Government of Japan, which consisted of experts in various fields relating to the protection of human rights. The Committee is of the view that the detailed information provided by the delegation in its introduction of the report, as well as the comprehensive

replies furnished to the question raised by the Committee members, contributed greatly to making the dialogue fruitful.

100. The Committee notes with appreciation that the Government of Japan gave wide publicity to its report, thus enabling a great number of non-governmental organizations to become aware of the contents of the report and to make known their particular concerns. In addition, some of them were present during the Committee's consideration of the report.

2. Factors and difficulties affecting the implementation of the Covenant

101. The Committee notes that the Government of Japan sometimes experiences difficulties in taking measures to implement the Covenant owing to various social factors, such as the traditional concept of the different roles of the sexes, the unique relationship between individuals and the group they belong to and the unconscious particularities owing to the homogeneity of the population.

3. Positive aspects

102. The Committee takes note with satisfaction of the serious approach that the Government of Japan has taken in dealing with issues relating to civil and political rights, and of its commitment to fulfil its obligations under the Covenant.

103. The Committee is of the view that the human rights situation in Japan has improved since the consideration of the second periodic report of that State party in 1988, and that there is generally a good regard for human rights in the country.

104. Furthermore, the Committee notes, with appreciation, that Japan actively assists in the promotion of human rights at the international level. It also notes that there is awareness in the Japanese society of the provisions of the Covenant; this awareness is confirmed by the interest expressed by many Japanese non-governmental organizations in the Committee's consideration of the third periodic report of Japan.

4. Principal subjects of concern

105. The Committee believes that it is not clear that the Covenant would prevail in the case of conflict with domestic legislation and that its terms are not fully subsumed in the Constitution. Furthermore, it is also not clear whether the "public welfare" limitation of articles 12 and 13 of the Constitution would be applied in a particular situation in conformity with the Covenant.

106. The Committee expresses concern at the continued existence in Japan of certain discriminatory practices against social groups, such as Korean permanent residents, members of the Buraku communities, and persons belonging to the Ainu minority. The requirement that it is a penal offence for alien permanent residents not to carry documentation at all times, while this does not apply to Japanese nationals, is not consistent with the Covenant. Moreover, persons of Korean and Taiwanese origin who serve in the Japanese Army and who no longer

possess Japanese nationality are discriminated against in respect of their pensions.

107. In addition, the Committee expresses concern at other discriminatory practices that appear to persist in Japan against women with regard to remuneration in employment, and notes that de facto problems of discrimination more generally continue to exist. The situation regarding mentally ill persons has significantly improved, but problems continue regarding access to employment. The Committee acknowledges the fact that legal measures have been taken by the Japanese authorities to forbid those practices and that there are comprehensive programmes to promote equal opportunity. However, it appears that a certain gap exists in Japan between the adoption of legislation and the actual behaviour of certain sectors of society. The Committee notes that recourse for settlement of claims of discrimination against trade-union activists is very protracted.

108. The Committee is particularly concerned at the discriminatory legal provisions concerning children born out of wedlock. In particular, provisions and practices regarding the birth registration forms and the family register are contrary to articles 17 and 24 of the Covenant. The discrimination in their right to inherit is not consistent with article 26 of the Covenant.

109. The Committee is disturbed by the number and nature of crimes punishable by death penalty under the Japanese Penal Code. The Committee recalls that the terms of the Covenant tend towards the abolition of the death penalty and that those States which have not already abolished the death penalty are bound to apply it only for the most serious crimes. In addition, there are matters of concern relating to conditions of detainees. In particular, the Committee finds that the undue restrictions on visits and correspondence and the failure of notification of executions to the family are incompatible with the Covenant.

110. The Committee is concerned that the guarantees contained in articles 9, 10 and 14 are not fully complied with, in that pre-trial detention takes place not only in cases where the conduct of the investigation requires it; the detention is not promptly and effectively brought under judicial control and is left under the control of the police; most of the time interrogation does not take place in the presence of the detainee's counsel, nor do rules exist to regulate the length of interrogation; and the substitute prison system (Daiyo Kangoku) is not under the control of an authority separate from the police. In addition, the legal representatives of the defendant do not have access to all relevant material in the police record, in order to enable them to prepare the defence.

111. The Committee regrets that there appears to be a restrictive approach in certain laws and decisions as to respect for the right to freedom of expression.

112. The Committee notes with concern the exclusion of Koreans from the Government's concept of minorities. This is not justified by the Covenant, which does not limit the concept of minority to those who are nationals of the State concerned.

5. Suggestions and recommendations

113. The Committee recommends that Japan become a party to both Optional Protocols to the International Covenant on Civil and Political Rights and to the

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

114. The Committee also recommends that the Japanese legislation concerning children born out of wedlock be amended and that discriminatory provisions contained therein be removed to bring it into line with the provisions of articles 2, 24 and 26 of the Covenant. All discriminatory laws and practices still existing in Japan should be abolished in conformity with articles 2, 3 and 26 of the Covenant. The Government of Japan should make an effort to influence public opinion in this respect.

115. The Committee further recommends that Japan take measures towards the abolition of the death penalty and that, in the meantime, that penalty should be limited to the most serious crimes; that the conditions of death row detainees be reconsidered; and that preventive measures of control against any kind of ill-treatment of detainees should be further improved.

116. With a view to guaranteeing the full application of articles 9, 10 and 14 of the Covenant, the Committee recommends that pre-trial procedures and the operation of the substitute prison system (Daiyo Kangoku) should be made compatible with all requirements of the Covenant and, in particular, that all the guarantees relating to the facilities for the preparation of the defence should be observed.

D. Malta

117. The Committee considered the initial report of Malta (CCPR/C/68/Add.4) at its 1283rd and 1287th meetings, held on 1 and 3 November 1993, and adopted 24/ the following comments:

1. Introduction

118. The Committee welcomes the State party's initial report and the constructive manner in which the dialogue with the Committee has been engaged. It notes that the information submitted in the report and that provided orally by the delegation, both in its introductory statement and in the comprehensive and detailed replies to oral questions, enabled the Committee to obtain a clear picture of Malta's actual compliance with the obligations undertaken under the International Covenant on Civil and Political Rights. The Committee, however, regrets that the report deals mainly with constitutional provisions and contains little information about the practical application of the provisions of the Covenant.

2. Factors and difficulties affecting the application of the Covenant

119. The Committee notes that there are no indications in the report or in the oral submission on the factors or difficulties which may impede the effective implementation of the Covenant's provisions.

3. Positive aspects

120. The Committee notes the efforts undertaken by the Government of Malta in order to guarantee effectively the protection of civil and political rights. Chapter IV of the national Constitution provides an appropriate basis for the effective protection of most of the human rights contained in the Covenant.

121. The recent adoption by Parliament of a number of legal measures, such as the Local Council Act, the proposed review of the Civil Code in order better to ensure the equality of children born out of wedlock and to promote the equality of sexes and the proposed revision of the Investigation of Injustices Act, the forthcoming consideration by Parliament of a draft Data Protection Act and Information Practices Act, indicate the commitment of the Government of Malta to bring its national legislation into line with the Covenant.

122. The Committee notes with satisfaction that, in 1990, Malta acceded to the first Optional Protocol at the same time as it acceded to the Covenant.

4. Principal subjects of concern

123. The Committee is concerned at the fact that the Covenant, unlike the European Convention for the Protection of Human Rights and Fundamental Freedoms, has not yet been incorporated into the national legal order. The Committee also expresses concern over the status of the Covenant within the legal system of Malta and the lack of clarity concerning the resolution of eventual conflicts between the Covenant and domestic legislation.

124. In this connection, the Committee recalls that, in accordance with article 2, paragraph 2, of the Covenant, each State party to the Covenant undertakes to take the necessary steps to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in the Covenant.

125. The Committee also expresses concern over the apparent preference accorded, in the domestic law as well as in legal doctrine and jurisprudence, to the European Convention for the Protection of Human Rights and Fundamental Freedoms as against the International Covenant on Civil and Political Rights. In that regard, the attention of the State party is drawn to the fact that the latter guarantees a number of human rights not protected under the former and that permissible restrictions are less broad-based.

126. The Committee notes that the reservations entered by Malta upon ratification of the Covenant with respect to a number of provisions have an adverse effect on the effective implementation of the Covenant. No convincing reasons have been offered for the reservations to articles 13 and 14, paragraph 6. Additionally, given the actual situation of human rights protection in Malta, some reservations may now have become obsolete.

127. The Committee further notes that certain requirements of the Covenant, such as those referred to in articles 9, paragraph 3, and 26, are not fully met. In that connection, the attention of the State party is drawn to the pertinent General Comments adopted by the Committee as well as to the Committee's jurisprudence under the Optional Protocol.

5. Suggestions and recommendations

128. The Committee recommends that the State party take appropriate measures to incorporate the substantive provisions of the Covenant into domestic law and ensure that the restrictions imposed under domestic law do not go beyond those permissible under the Covenant.

129. The Committee also recommends that the Government review, with a view to withdrawing, the reservations made upon ratification of the Covenant, particularly those concerning articles 13 and 14 of the Covenant.

130. The Committee expresses the hope that the Government of Malta will consider ratifying the Second Optional Protocol to the Covenant aiming at the abolition of the death penalty.

131. The Committee emphasizes that further measures should be taken to ensure that the provisions of the Covenant be made more widely known, particularly among the legal profession, members of the judiciary and administrative authorities. The general public should also be adequately informed of the provisions of the Covenant and those contained in the Optional Protocol.

E. Romania

132. The Committee considered the third periodic report of Romania (CCPR/C/58/Add.15) at its 1284th to 1286th meetings, held on 1 and 2 November 1993, and adopted 24/ the following comments:

1. Introduction

133. The Committee welcomes the third periodic report of Romania and expresses its appreciation for the detailed and comprehensive information contained therein, particularly with regard to the many legislative developments that have recently taken place. In particular, the Committee expresses its appreciation to the delegation for the additional detailed information it presented to the members of the Committee in response to their questions and comments. The frankness of the report and the openness displayed by the delegation facilitated a most constructive and encouraging dialogue with the State party.

2. Factors and difficulties affecting the application of the Covenant

134. The Committee notes with concern the legacy of the totalitarian past in Romania, during which time serious and systematic violations of human rights occurred. In this respect, the Committee notes, in particular, that some political and social attitudes still prevalent and generally tolerated in the country are not conducive to the promotion and protection of human rights.

3. Positive aspects

135. The Committee welcomes the many recent developments in Romania that represent significant progress in the transition towards democracy and pluralism. In general, the Committee is encouraged by the provisions of the new

Constitution and the firm legal basis it provides for a democratic order. In particular the Committee expresses satisfaction that the Covenant and other international human rights instruments have been incorporated into domestic law and that they appear to occupy a superior position within the legal hierarchy.

136. The Committee notes with appreciation the political reforms undertaken in Romania and the establishment of democratic institutions. The efforts to undertake a thorough legal reform have already yielded many accomplishments, particularly with respect to the new law on the judiciary, reforms in the Penal Code and Penal Procedure and the prospective repeal of certain discriminatory laws such as those which had victimized homosexuals.

137. The Committee welcomes the abolition of the death penalty and the adherence of Romania to the Second Optional Protocol. It also appreciates Romania's recent accession to the First Optional Protocol recognizing the competence of the Committee to receive complaints from individuals alleging a violation of their rights under the Covenant.

138. The Committee also welcomes the openness of the Government in affirming the multicultural nature of Romanian society and the efforts that have been made to engage the participation of minorities in public life.

4. Principal subjects of concern

139. The Committee is concerned that the legal framework may not be in full conformity with the Covenant, particularly in that the general restriction of rights under article 49 of the Constitution is much broader than what is allowed under the Covenant.

140. The Committee expresses concern at the continuing problems in Romania regarding discrimination against persons belonging to minorities and, in particular, offences committed as a result of incitement to ethnic or religious intolerance. This situation is especially threatening to vulnerable groups, such as the Roma (gypsies). The Committee is concerned that the Government has not been sufficiently active in combating such discrimination or effectively countering incidents of violence committed against members of minority groups.

141. The Committee is concerned over abuses committed by the police, such as forcible entry into homes, failure to inform detainees of their rights and ill-treatment of prisoners. In this regard, the Committee notes that the number of investigations, charges and convictions are extremely few compared with the number of complaints received or abuses reported; that penalties prescribed by law are not commensurate with the gravity of the crimes committed; and that compensation to the victims of abuse is not always forthcoming, all of which contribute to an atmosphere of impunity. This situation is particularly alarming in view of the way it undermines harmonious relations with minorities, thus leading to ethnic marginalization and escalation of violence.

142. The Committee notes with regret the decrease in the participation of women in public life and in their employment and opportunities in recent years. The increasing rate of infant mortality is also a matter for concern.

143. The Committee also expresses concern that the full independence of the judiciary has not yet been ensured. In this connection, the continuing powers of the Ministry of Justice over judicial decisions and the power to remove

judges creates a situation which greatly undermines the independence of the judiciary.

5. Suggestions and recommendations

144. The Committee emphasizes that continuing review is needed to ensure that all relevant laws, regulations and administrative procedures conform to the provisions of the Covenant. In this regard, relevant draft legislation under active consideration should also be in strict compliance with the obligations of Romania under the Covenant. This is especially important in regard to the exercise of freedom of expression since restrictions under article 49 of the Constitution are significantly wider in scope than those permitted under article 19 of the Covenant. The Committee recommends that legal reforms be closely followed by effective changes in practice, particularly in regard to administrative regulations and procedures.

145. The Committee recommends that further measures be taken to protect persons belonging to minority groups and to enable them to exercise their rights under the Covenant, including participation at all levels in public institutions. The Committee also recommends that the Government take more active steps to combat racist and xenophobic attitudes and promote tolerance and understanding among the various ethnic, religious and national groups in Romania. In this connection, a positive approach should be taken to counter negative attitudes in the media which are likely to reinforce racist attitudes among the public, particularly in regard to the Roma.

146. The Committee emphasizes the need for greater control over the police, particularly in the context of the recent authoritarian past from which Romanian society is emerging. Determined and continuing efforts need to be undertaken to ensure that there is no element of racism in law enforcement, either in practice or in public perception. Further progress should be achieved in fully returning the police to civilian control. There should be intensive training and education programmes aimed at law enforcement officials as well as a determined effort to ensure adequate minority representation in the police force. Steps should also be taken to strengthen recourse procedures for victims of police abuse and ensure adequate follow-up to reports of abuse by thorough investigation and by applying criminal rather than merely administrative sanctions against offenders.

147. The Committee emphasizes the need for the Government to take positive measures to strengthen the situation of women and children, particularly with respect to participation in public life, equal opportunities to employment and remuneration and equal rights and responsibilities in the family. The Committee also recommends that measures be taken to reduce infant mortality.

148. With regard to the independence of the judiciary, the Committee recommends that steps be taken to speed up the reform process and end the present monitoring powers of the Ministry of Justice. Further vigorous efforts should be made to encourage a culture of independence among the judiciary itself.

149. The Committee underlines the need for the Government to take a more active approach in overcoming public attitudes that hamper the effective implementation of human rights standards. Public information and education activities need to be strengthened so that the general public may be better acquainted with the provisions of the Covenant and the steps taken to apply it in practice. In this

connection, greater use could be made of non-governmental organizations and the media.

F. Costa Rica

150. The Committee considered the third periodic report of Costa Rica (CCPR/C/70/Add.4) at its 1298th to 1300th meetings, held on 24 and 25 March 1994 (see CCPR/C/SR.1298-1300), and adopted 25/ the following comments:

1. Introduction

151. The Committee welcomes the opportunity to continue its dialogue with the State party but notes with regret that its report did not contain sufficient information on the implementation in practice of the Covenant. The Committee notes that the delegation provided useful information on several points not covered in the report.

152. The Committee expresses its concern over the inadequate steps taken by the State party properly to discharge its reporting obligations under article 40 of the Covenant. In this regard, the Committee regrets that its observations at the consideration of the second periodic report were not taken into account during the preparation of the third periodic report. Furthermore, the third periodic report did not at all conform to the reporting guidelines established by the Committee. The Committee is also concerned that the report was neither adequately publicized in Costa Rica nor available to the public or human rights organizations in Costa Rica in advance of its consideration by the Committee.

2. Factors and difficulties affecting the application of the Covenant

153. The Committee notes that there was no indication in the report concerning factors and difficulties affecting the application of the Covenant.

154. The Committee understands that a rising crime rate has considerably increased the workload of the judiciary.

3. Positive aspects

155. The Committee takes note with appreciation of the level of achievement in the enjoyment of human rights in Costa Rica. It notes with satisfaction the measures undertaken by the Government to protect human rights at the national level, such as those offices established for the protection of human rights of women, children and detainees and the recently established Office of the Defender of the Inhabitants. In particular, the Committee expresses its satisfaction with the goodwill demonstrated by the Government to achieve effective protection of human rights and the progressive approach it has adopted to incorporate international human rights standards into the domestic legal order. The Committee expresses its appreciation for the major contribution by Costa Rica aimed at strengthening international efforts to promote and protect human rights.

4. Principal subjects of concern

156. The Committee notes with concern that, in view of the inadequate information that has been provided by the State party, it is unclear to what extent the rights of detainees are protected in actual practice, particularly the right to liberty and security of person and the right of appeal. In that connection, concern is expressed at the present level of protection for detainees regarding lengthy pre-trial detention. Concern is also expressed at the inadequacy of training on human rights standards, particularly the provisions of the Covenant, provided to the police and security forces and the extent to which their activities are monitored.

157. The Committee notes with concern that many labour regulations, particularly those relating to freedom of association as protected under article 22 of the Covenant, are not in conformity with international standards. In particular, the Committee further notes that the rights of workers employed by small agricultural businesses, especially those who wish to form unions in coffee and sugar cane plantations, may not be protected under the current legal regime. Additionally, there is concern that the system of "solidarity" organizations (asociaciones solidaristas) may prevent the effective enjoyment of those rights in general.

158. With respect to article 18 of the Covenant, the Committee is concerned at the pre-eminent position accorded to the Roman Catholic Church. The Committee also notes with concern that certain provisions of Costa Rican legislation (inter alia, the Ley de Carrera Docente) confer on the National Episcopal Conference the power to effectively impede the teaching of religions other than Catholicism in public schools and the power to bar non-Catholics from teaching religion in the public school curricula.

159. The Committee notes with concern that many laws aimed at promoting gender equality have not had their intended effect and that there is still much progress to be made in this regard.

5. Suggestions and recommendations

160. The Committee recommends that existing measures to protect the rights of detainees be strengthened. In this connection, the Committee emphasizes the importance of closely monitoring pre-trial detention and the need for prompt investigation into reports of abuse. The Committee stresses the importance of adequate training for the police and other security forces and prison personnel with respect to the relevant provisions of the Covenant as well as other applicable international human rights standards, including the Standard Minimum Rules for the Treatment of Prisoners.

161. The Committee suggests that the Government consider steps to review and, where necessary, reform labour legislation to ensure that freedom of association, as guaranteed under article 22 of the Covenant, is enjoyed by all workers in Costa Rica and, in particular, that workers in small agricultural enterprises are free to organize.

162. The Committee recommends that the State party take steps to ensure that there is no discrimination in the exercise of the right to religious education, particularly with respect to access to religious teachings other than Catholicism. Current practices which make the selection of religious

instructors subject to the authorization of the National Episcopal Conference are not in conformity with the Covenant.

163. The Committee recommends that further measures be taken to combat gender inequality and to improve the situation of women in Costa Rica.

164. The Committee strongly urges the Government to prepare its fourth periodic report in compliance with the guidelines for the preparation of State party reports and take into account concerns expressed during the consideration of the third periodic report. The Committee emphasizes that Costa Rica should be prepared to report on, and participate in a dialogue on, each article of the Covenant; and that this obligation is not negated by the fact that Costa Rica believes that it has given some of the relevant material to another treaty body. The fourth periodic report should contain, inter alia, detailed and updated information on the extent to which each of the rights protected under the Covenant, including article 27, are enjoyed in actual practice and on measures taken during the reporting period to further implement the Covenant. The Committee emphasizes that the State party should not underestimate the importance of properly fulfilling its obligations under article 40 of the Covenant. In that connection, attention is drawn to the fact that appropriate advice and training for the submission of reports might be obtained from the Centre for Human Rights.

165. The Committee underlines the importance of involving concerned professional organizations, non-governmental organizations, the media and the general public in efforts to improve the application of the Covenant. To this end, the State party should ensure that its reports under article 40 of the Covenant are publicized and readily accessible in Costa Rica in advance of their consideration by the Committee. Additional measures should be taken with a view to making provisions of the Covenant more widely known among judges, lawyers, teachers and the general public.

G. Mexico

166. The Committee considered the third periodic report of Mexico (CCPR/C/76/Add.2) from its 1302nd to 1305th meetings, held on 28 and 29 March 1994 (see CCPR/C/SR.1302-1305), and adopted 25/ the following comments:

1. Introduction

167. The Committee thanks Mexico for its report and welcomes the appearance of a large high-level delegation before the Committee despite the serious events that recently occurred there. It notes that the report was completed on time and that it takes into account the questions submitted by Committee members during their consideration of the previous periodic report as well as the general comments of the Committee. The oral presentation, accompanied by extensive documentation, served to update the written report and contributed to a frank and fruitful dialogue with the Committee.

168. The Committee thanks the State party for the core document (HRI/CORE/1/Add.12), drafted in accordance with the consolidated guidelines for the initial part of the reports of States parties which must be submitted under the various international human rights instruments (HRI/1991/1).

2. Factors and difficulties affecting the application of the Covenant

169. Socio-economic difficulties and extremely widespread poverty have led to the growing marginalization of a vast portion of the population, in particular street children and members of indigenous groups, who, as a result, are denied the protection of the basic rights guaranteed by the Covenant. Moreover, rural populations are isolated because of the remoteness of agrarian zones from decision-making centres and judicial organs, which impedes the realization of human rights throughout the territory of Mexico.

3. Positive aspects

170. The Committee welcomes with satisfaction the establishment of the National Human Rights Commission responsible for conducting investigations and making recommendations to the Government. The Committee notes the establishment of similar commissions within each of the States of the Union at the local level. These new institutions and the development of human rights legislation, which, in particular, prescribes punishment for torture and provides for compensation of victims, reflect progress towards the promotion and protection of human rights in Mexico. The extension of the right to vote to persons who had hitherto been deprived of that right and access to the public service by citizens who are not Mexican nationals by birth are positive developments in ensuring respect for article 25 of the Covenant. Allowing non-governmental organizations the opportunity to visit any part of the country, in particular the sensitive areas, demonstrates the Government's willingness to cooperate with organizations for the defence of human rights.

4. Principal subjects of concern

171. The Committee strongly deplores the events that occurred recently in Chiapas which resulted in many violations of the rights guaranteed by the Covenant, in particular, in articles 6, 7 and 9 thereof. The Committee notes that, since a state of emergency was not declared in Chiapas in early 1994, the authorities have restricted the rights provided for in the Covenant, particularly in articles 9 and 12, without respecting the guarantees provided for therein.

172. The Committee is disturbed by the large number of complaints concerning acts of torture or arbitrary detention when prosecution and sentencing of the guilty parties occurs very infrequently and falls far short of the recommendations of the National Human Rights Commission of Mexico, which has condemned these acts. Similarly, enforced or involuntary disappearances and extrajudicial executions are not systematically followed by investigations in which the perpetrators are identified, brought to justice and punished and the victims compensated. Lastly, the conditions in prison and other detention centres and the slowness of judicial procedures continue to be a major cause for concern.

173. As amparo proceedings have proved to be ineffective, immediate release of a person who has been irregularly detained is not fully guaranteed in accordance with article 9 of the Covenant.

174. The Committee deplores the gross violation of both the right to life and the right to freedom of expression constituted by the frequent murder of journalists, which has reached alarming proportions.

175. The Committee is further concerned by the conditions in which the rights provided for in articles 21 and 22 of the Covenant are exercised, as evidenced by the severe repression of peaceful demonstrations by striking workers.

176. The Committee has doubts and concerns about the electoral system and practices and the climate of violence in which the most important elections have taken place. It notes that this situation precludes the full guarantee of free choice by all voters and the participation of all citizens in the conduct of public affairs, in particular through freely chosen representatives, in accordance with article 25 of the Covenant.

177. Lastly, the Committee has expressed concern about the situation of indigenous populations. Article 27 of the Constitution concerning agrarian reform is often implemented to the detriment of persons belonging to such groups. The delay in resolving problems relating to the distribution of land has weakened the confidence of these populations in both local and federal authorities. Moreover, these persons are subject to special laws, particularly in Chiapas, which could create a situation of discrimination within the meaning of article 26 of the Covenant.

5. Suggestions and recommendations

178. The Committee recommends that the State party should provide the National Human Rights Commission with the authority necessary for its effective functioning, in complete independence from the political and administrative authorities, and should allow it to refer cases to the competent judicial authorities where it finds that rights guaranteed by the Covenant have been violated.

179. The Committee strongly recommends that all cases of extrajudicial execution, torture and arbitrary detention be investigated in order to bring those suspected of having committed such acts before the courts, that those found guilty be punished and that the victims be compensated. Law enforcement officials should be properly trained so that ensuring respect for the basic rights of the persons placed under their control becomes an integral part of their task.

180. The Committee suggests to the Mexican authorities that they fully implement article 25 of the Covenant, in particular with regard to elections, by taking legal and practical measures to ensure equitable representation of the entire electorate and to ensure that the balloting is free from fraud and takes place in an atmosphere of calm essential to the voters' exercise of free choice. To that end, the willingness of the authorities to accept international observers during the balloting would contribute to the transparency of the elections.

181. The Committee invites the authorities actively to pursue programmes for the protection of vulnerable children, particularly street children. Similarly, the progress achieved with regard to the status of women should be developed further and greater efforts should be made to combat family violence.

182. The Committee recommends that the Government give consideration to more equitable land distribution within the framework of agrarian reform and that it take into account the rights and aspirations of indigenous populations in that connection. Furthermore, measures for the implementation of article 4 of the Constitution should be considerably strengthened. Indigenous populations should have the opportunity to participate in decision-making on matters that concern them.

H. Cameroon

183. The Committee considered the second periodic report of Cameroon (CCPR/C/63/Add.1) at its 1306th to 1308th meetings, held on 30 and 31 March 1994 (see CCPR/C/SR.1306-1308), and adopted 26/ the following observations:

1. Introduction

184. The Committee thanks Cameroon for its report and welcomes the Government's willingness to pursue the dialogue entered into with the Committee. The report, although a summary and rather theoretical, otherwise conforms to the Committee's guidelines regarding the form and contents of periodic reports (CCPR/C/20/Rev.1), and the oral comments were a valuable complement to the information given in writing. The replies to the questions of Committee members by a competent high-level delegation helped to make the dialogue between the delegation and the Committee frank and fruitful.

2. Factors and difficulties impeding the application of the Covenant

185. The ignorance of individuals as to their rights impedes the enjoyment thereof and contributes to their failure to provide remedies for violation of those rights. Accordingly, there remain many unaddressed human rights violations. The survival of certain traditions and customs sometimes constitutes an obstacle to the application of the Covenant, particularly with regard to equality of men and women.

C. Positive aspects

186. The establishment of the National Committee for Human Rights and Freedoms represents a notable advance in the promotion of human rights in Cameroon.

187. The acts passed in 1990, in particular Act No. 90-56 of 19 December 1990 concerning political parties, establishing a multiparty system, constitute an encouraging factor for the implementation of the Covenant.

188. The detailed information given orally by the delegation on the situation of minorities in Cameroon is indicative of the positive approach of the country's authorities to the implementation of article 27 of the Covenant.

4. Principal subjects of concern

189. The Committee regrets the fact that the Secretary-General was not notified in the correct manner, in accordance with the requirements of article 4 of the Covenant, of the proclamation of a state of emergency at the time of the events that took place in the country's Nord-Ouest province in 1992.

190. The Committee deplores the fact that the State party has not embarked on all the necessary reforms to combat the factors still impeding equality of men and women.

191. The Committee is concerned that, in spite of a recent reduction, the number of offences punishable by the death penalty in the Criminal Code is still excessive, in particular aggravated theft or traffic in toxic or dangerous wastes, and at the number of death sentences handed down by the courts.

192. It deplores the infringements of the right to life by representatives of the security forces, the Army and even paramilitary groups in respect of civilians, not only during the events of 1992 but also in March 1993 and, more recently, in March 1994.

193. The Committee deplores the multiple cases of torture, ill-treatment, extrajudicial execution and illegal detention, suffered in particular by journalists and political opponents. Torture and ill-treatment seem to be practised systematically by the security forces, and on several occasions their brutality has caused the death of the victims.

194. It also deplores the fact that such brutality is practised in prisons, as well as non-respect for the provisions of article 10 of the Covenant in detention centres where men and women, convicted and unconvicted prisoners, adult and juvenile offenders are held in the same, generally insalubrious, cells.

195. The Committee notes that freedom of expression is not guaranteed, owing to the requirement of prior deposit of all publications, censorship and the control exercised by the authorities over the press, radio and television.

196. The Committee questions the independence of the judiciary; in particular, the composition of the Supreme Council of Justice does not seem such as to guarantee respect for this principle.

197. The Committee expresses its regret at the difficulties encountered by workers in exercising freely and peacefully their rights under articles 21 and 22 of the Covenant.

198. The Committee is concerned about the conditions in which the presidential elections of 11 October 1992 were held, and, in particular, it expresses its concern at the numerous allegations of fraud made during the different ballots.

5. Suggestions and recommendations

199. The Committee recommends that the Cameroonian authorities avail themselves of the constitutional reform to incorporate in the national legal system all the rights guaranteed by the Covenant, and that each article of the draft be systematically checked against the provisions of the Covenant.

200. Measures should be taken to organize free, equitable and transparent elections.

201. The Committee invites the Government to disseminate the Covenant by culturally appropriate means, so that everyone has a knowledge of his rights, whatever his place of residence and his situation in Cameroonian society.

202. The Committee urges the authorities of Cameroon to revise the Criminal Code with a view to restricting the number of offences carrying the death penalty.

203. The Committee strongly recommends that the Government take all necessary measures to prevent summary executions, torture, ill-treatment and illegal detention, that all such cases be investigated in order to bring those suspected of having committed such acts before the courts, that those found guilty be punished and that the victims be compensated.

204. The Committee invites the Cameroonian authorities to modify their legislation applicable to administrative detention so as to make it limited in time and subject to appeal in accordance with article 9, paragraph 4, of the Covenant. The Committee urges the Cameroonian authorities to require law-enforcement officers to have a strict respect for the provisions of article 9 of the Covenant, in order to put an end to arbitrary or illegal detention, by organizing specific training for them if necessary.

205. The Committee invites the Cameroonian authorities to adopt as a matter of urgency the measures necessary to ensure that in prisons and detention centres all the provisions of article 10 of the Covenant are fully respected.

206. Measures should be taken, if necessary in the form of constitutional reform, to guarantee the independence and impartiality of the judiciary, in accordance with article 14, paragraph 1, of the Covenant.

207. The Committee invites the Government to improve the situation of women, with a view to achieving the effective application of article 3 of the Covenant, in particular by adopting the necessary educational and other measures to overcome the weight of certain customs and traditions and by proceeding as soon as possible with its plan to amend the Family Code.

208. The Committee recommends that the Cameroonian authorities remove censorship once and for all and amend the Act of 19 December 1990, with a view to ensuring its conformity with article 19 of the Covenant.

I. El Salvador

209. The Committee considered the second periodic report of El Salvador (CCPR/C/51/Add.8) at its 1310th to 1313th meetings, held on 4 and 5 April 1994 (see CCPR/C/SR.1310-1313), and adopted 27/ the following comments:

1. Introduction

210. The Committee welcomes the opportunity to continue its dialogue with the State party following a delay in reporting of over 10 years. The second report contained information about constitutional and legal measures giving effect to the Covenant that was supplemented by the core document. The Committee regrets

that the second periodic report neither accurately nor candidly represents the actual human rights situation in El Salvador in the period covered by the report, during which armed conflict and massive violations of human rights have been followed by a peace process supervised by the United Nations Observer Mission in El Salvador (ONUSAL). In particular, it provides little relevant information on such key areas as the protection of the right to life under article 6 of the Covenant, the prohibition of torture under article 7, the right to liberty and security of person under article 9 and the guarantee to due process under the law in accordance with article 14. The Committee regrets, in particular, the complete lack of information regarding either the report of the Truth Commission and the implementation of its recommendations or the Amnesty Law and its impact on the State party's obligations under the Covenant.

211. The Committee expresses its appreciation to the delegation for the useful information it provided in response to the list of issues, as well as to questions and comments of Committee members. However, the Committee regrets that many questions put to the delegation during the discussion remained unanswered.

2. Factors and difficulties affecting the application of the Covenant

212. The Committee notes that El Salvador has only recently emerged from a long and devastating civil war during which gross and systematic human rights violations occurred and that it is still in the process of recovery and transition to peace.

3. Positive aspects

213. The Committee notes with satisfaction that the human rights situation has improved in El Salvador and that some progress has been made towards the consolidation of peace and the establishment of the rule of law. In that connection, the Committee notes the signing of the peace accords in 1992 and the creation under that accord of the Truth Commission and the Ad Hoc Commission to investigate past human rights abuses, to recommend action against the perpetrators and to avoid a recurrence of such events. The Committee particularly welcomes the establishment of the Office of the Procurator for the Protection of Human Rights and the Office for Information on Detained Persons as well as the primacy accorded in the Constitution to international human rights instruments over domestic legislation. The Committee also welcomes the legal reform undertaken in some areas, notably with respect to the family code and the establishment of family courts, and the limitation of the jurisdiction of military tribunals.

4. Principal subjects of concern

214. The Committee is concerned that, despite the signing of the peace accord over two years ago, the rule of law has not yet been effectively re-established. The Committee expresses concern that human rights violations continue in El Salvador, particularly serious and systematic violations of the right to life carried out by paramilitary groups. In this regard, the Committee notes with alarm that politically motivated summary and arbitrary executions, death threats and cases of torture have continued to occur since the signing of the peace

accord. The Committee also notes that most recommendations of the Truth Commission still have not been implemented. A significant gap persists between constitutional and legal guarantees and the actual application of those legal guarantees. The Committee also notes with concern that the rights and freedoms in the Covenant have not been fully included in the Constitution.

215. The Committee expresses grave concern over the adoption of the Amnesty Law, which prevents relevant investigation and punishment of perpetrators of past human rights violations and consequently precludes relevant compensation. It also seriously undermines efforts to re-establish respect for human rights in El Salvador and to prevent a recurrence of the massive human rights violations experienced in the past. Furthermore, failure to exclude violators from service in the Government, particularly in the military, the National Police and the judiciary, will seriously undermine the transition to peace and democracy.

216. The Committee expresses concern over continuing human rights abuses by the military and security forces. In this context, the Committee notes with particular concern the lack of full and effective control by civilian authorities over the military and the security forces.

217. The Committee expresses concern over the fact that high officials of the judiciary have been implicated by the Truth Commission in human rights violations. In that connection, the Committee notes with concern that until serious reform of the judiciary is undertaken, efforts to strengthen the rule of law and to promote respect for human rights will continue to be undermined. The Committee also notes with concern the lack of support and protection given by the civilian authorities to the judiciary in the performance of its duties.

218. A number of additional concerns remain, including the full and effective application of the Covenant in matters pertaining to the full enjoyment by women of the rights guaranteed under the Covenant and the difficulties encountered in ensuring the full participation of all citizens in the electoral process.

5. Suggestions and recommendations

219. The Committee endorses the recommendations of the Truth Commission and strongly recommends that the Government take immediate steps to implement them fully.

220. The Committee emphasizes the obligation of the State party under article 2, paragraph 3, of the Covenant to ensure that victims of past human rights violations have an effective remedy. In order to discharge that obligation, the Committee recommends that the State party review the effect of the Amnesty Law and amend or repeal it as necessary.

221. The Committee recommends that all necessary measures be urgently taken to combat the continuing human rights violations in El Salvador. All violations should be thoroughly investigated, the offenders punished and the victims compensated. In this connection, the Committee also recommends that the Office of the Procurator for the Protection of Human Rights should be strengthened, both with regard to resources and competence, in order to ensure that the Procurator may effectively carry out his or her responsibilities.

222. The Committee recommends that all necessary measures be taken to ensure that human rights are respected by the military. The Committee urges continuing

vigorous action to ensure that persons closely associated with human rights abuses do not re-enter the police, army or security forces.

223. The Committee recommends that major reform of the judiciary be undertaken with a view to establishing an independent and impartial judicial system free from political pressure and intimidation that will safeguard human rights and enforce the rule of law without discrimination.

224. The Committee urges that respect for human rights be institutionalized at all levels of the Government and recognized as an essential element of the process of national reconciliation and reconstruction. To that end, the Committee recommends that all articles of the Covenant be fully incorporated into the national legal system; that comprehensive human rights training be provided to judges, the police and the military; and that human rights education be provided in schools at all levels. The active participation of non-governmental organizations in the democratization process should also be encouraged.

J. Libyan Arab Jamahiriya

225. The Committee began consideration of the second periodic report of the Libyan Arab Jamahiriya (CCPR/C/28/Add.16) at its 1275th and 1276th meetings (see CCPR/C/SR.1275 and 1276), held on 26 October 1993. Because of time constraints, the Committee could not conclude the consideration of the report. At the request of the Libyan Arab Jamahiriya, the Committee agreed to take it up again at its fifty-first session. However, by a note dated 3 May 1994, the Permanent Mission of the Libyan Arab Jamahiriya to the United Nations Office at Geneva requested a further postponement of the consideration of that report because of a lack of information from the Libyan specialized institutions. The Chairman of the Committee met the Chargé d'affaires of the Permanent Mission of the Libyan Arab Jamahiriya on 19 July 1994 and conveyed to him the Committee's wish to resume consideration of the report at its fifty-second session, to be held at Geneva from 17 October to 4 November 1994 and, in any event, to adopt relevant comments at that session.

K. Jordan

226. The Committee considered the third periodic report of Jordan (CCPR/C/76/Add.1) at its 1321st to 1324th meetings, held on 5 and 6 July 1994, and adopted 28/ the following comments:

1. Introduction

227. The Committee welcomes the opportunity to continue its dialogue with the State party and thanks the Government of Jordan for its report (CCPR/C/76/Add.1) and core document (HRI/CORE/1/Add.18/Rev.1). It notes that the report and core document did not contain sufficient information on the effective implementation of the provisions of the Covenant. However, the presence of a high-level delegation, which provided additional information on many points not covered in the report enabled the Committee to obtain a better understanding of the human rights situation in Jordan and thus provided the basis for a frank and fruitful dialogue between the delegation and the Committee.

2. Factors and difficulties affecting the implementation of the Covenant

228. The Committee takes note of the difficult economic and social situation faced by Jordan as a result of the Gulf crisis and lack of stability in the region. The presence of a very large number of refugees constitutes another factor which renders the implementation of the Covenant more difficult.

3. Positive aspects

229. The Committee welcomes the democratic process initiated in 1989, the lifting of the state of emergency, and the abolition of the Martial Law and the 1935 Defence Act, as well as the release of political prisoners, restitution of withdrawn passports, reinstatement of civil servants who had been dismissed for political reasons and the institution of a right to appeal against decisions of the State Security Court to the Supreme Court. The Committee also notes with satisfaction the existence of an appeal procedure to the Supreme Court against administrative decisions, including those concerning civil servants. The efforts to undertake a thorough legal reform have already yielded many accomplishments, in particular with respect to the new Press Act and Political Parties Act. The Committee also appreciates the creation of a Commission for human rights and the establishment of Jordanian sections of the Arab Organization for Human Rights and Amnesty International. These new institutions and the drafting of new bills that may promote human rights, as well as the holding of multiparty elections, clearly illustrate the positive trend towards strengthening democracy and the promotion and protection of human rights in Jordan. Some progress made in recent years in promoting the status of women is also commendable and the notable achievements in the field of life expectancy together with reduction of child mortality rates are positive developments ensuring better respect of the right to life as provided for under article 6 of the Covenant.

4. Principal subjects of concern

230. The Committee notes that the Constitution does not contain specific provisions as to the relationship between international conventions and domestic law. Accordingly, there is a need to define the place of the Covenant within the Jordanian legal system to ensure that domestic laws are construed in conformity with the provisions of the Covenant. Furthermore, it notes with concern that the general legal framework is still not in conformity with the provisions of the Covenant. The Committee also regrets that the Constitutional Court has not yet been established.

231. The Committee is concerned that the State Security Court continues to exercise special jurisdiction and that, in accordance with articles 124 and 125 of the Constitution and under the new Defence Act, ordinary law can be suspended in emergency situations, contrary to the provisions of article 4 of the Covenant, which prohibit derogation from some categories of human rights. The lack of clarity with regard to accountability for acts performed under provisions of the Martial Law is also a matter of concern.

232. The Committee regrets that, although some improvement has been achieved as regards the status of women, the State party has not embarked on all the necessary reforms to combat the factors still impeding equality between men and

women. It notes with concern that the Constitution does not guarantee the principle of non-discrimination on the basis of sex, and that there are still gender disparities in law or practice with regard to such issues as status within the family, inheritance rights, and the right to leave the country, the acquisition of Jordanian nationality, access to work and participation in public life.

233. The Committee is concerned about the excessive number of offences punishable by the death penalty, as well as the number of death sentences handed down by the Courts.

234. The Committee is also concerned that the guarantees contained in articles 7, 9, 10 and 14 of the Covenant are not fully complied with. In particular, it is concerned that torture and ill-treatment of persons deprived of liberty continue to be reported. Cases of administrative detention, denial of access of detainees to legal counsel, long periods of pre-trial detention without charges and incommunicado detention are also matters of great concern. The Committee is particularly concerned at conditions of detention in the General Intelligence Department headquarters.

235. The Committee notes with concern the shortcomings in the observance of the provisions of article 18 of the Covenant, in particular the restrictions affecting the enjoyment by non-recognized or non-registered religious denominations, including the Baha'i, of their right to freedom of religion or belief. Concern is also expressed about the practical limitations to the right to have or adopt a religion or belief of one's choice, which should include the freedom to change religion.

236. The Committee also expresses concern that in spite of the positive developments resulting from the adoption of the new Press Act, freedom of expression is still restricted by the control exercised by the authorities over the State radio and television and by measures of harassment against some journalists. The Committee is also concerned that a rigid interpretation of the provisions of the new Press Act and Political Parties Act and prosecutions of offences of defamation might affect the effective enjoyment of those rights stipulated under articles 19 and 25 of the Covenant.

5. Suggestions and recommendations

237. The Committee recommends that the State party continue the legislative review envisaged in the National Charter and use this process to incorporate all substantive provisions of the Covenant into domestic law and ensure that the restrictions imposed under national legislation do not go beyond those permitted under the Covenant.

238. The Committee hopes that the Government of Jordan will consider becoming a party to the First Optional Protocol to the Covenant.

239. The Committee further recommends that Jordan envisage measures towards the abolition of the death penalty, including giving consideration to accession to the Second Optional Protocol.

240. The Committee emphasizes the need for the Government to prevent and eliminate discriminatory attitudes and prejudices towards women and to achieve

the effective implementation of article 3 of the Covenant, by adopting promotional measures to overcome the weight of certain traditions and customs.

241. The Committee recommends that consideration be given to the abolition of the State Security Court; that the detention premises controlled by the Central Intelligence Department be placed under close supervision of the judicial authorities; that necessary measures be taken to make sure that torture, ill-treatment and illegal detention do not occur and that any such cases be investigated in order to bring before the courts those suspected of having committed such acts and to punish them if found guilty. It also recommends that measures of administrative detention and incommunicado detention be restricted to very limited and exceptional cases, and that the guarantees concerning pre-trial detention provided for in article 9, paragraph 3, of the Covenant be implemented.

242. The Committee emphasizes the need to take further measures to guarantee the freedom of religion and eliminate discrimination on religious grounds, and suggests in this connection that the State party take into account the recommendations contained in the Committee's general comment on article 18 of the Covenant.

243. The Committee stresses that further measures should be taken to ensure that the provisions of the Covenant be made more widely known. It urges the Government to prepare its fourth periodic report in compliance with the guidelines for the preparation of State party reports, taking into account the general comments adopted by the Committee. The fourth periodic report should contain detailed information on the extent to which each right protected under the Covenant is enjoyed in practice, and refer to specific factors and difficulties that might impede its application. It should also highlight measures taken to follow up on the Committee's suggestions and recommendations.

244. The Committee recommends that the Jordanian authorities ensure that the report submitted by the State party and the comments of the Committee be disseminated as widely as possible in order to encourage the involvement of all sectors concerned in the improvement of human rights.

L. Togo

245. The Committee considered the second periodic report of Togo (CCPR/C/63/Add.2) at its 1325th to 1327th meetings, held on 7 and 8 July 1994, and adopted 29/ the following comments:

1. Introduction

246. The Committee thanks Togo for its report (CCPR/C/63/Add.2) and core document (HRI/CORE/1/Add.38) and welcomes the willingness of the Government to pursue the dialogue with the Committee. However, it notes with regret that the report, which contained scant information about constitutional and legal measures giving effect to the Covenant, was not drawn up in accordance with the Committee's guidelines regarding the form and contents of periodic reports (CCPR/C/20/Rev.1); in particular, it was characterized by a lack of information on the practice concerning human rights as well as on the factors and difficulties affecting the implementation of the provisions of the Covenant. The Committee nevertheless thanks the delegation of Togo for endeavouring to

reply to some of the questions raised and thus, to a certain extent, make up for the report's shortcomings.

2. Factors and difficulties affecting the implementation of the Covenant

247. The Committee notes that Togo is only now emerging from a long and devastating period of internal disturbances during which grave human rights violations occurred and that it is still in the process of recovery and transition to democracy. The lack of awareness of individuals of their rights under the Covenant and the Optional Protocol impedes the enjoyment thereof and further contributes to the failure to provide remedies for violations of those rights. The remnants of certain traditions and customs also constitute an obstacle to the effective implementation of the Covenant, particularly with regard to equality between men and women.

3. Positive aspects

248. The Committee welcomes the adoption of a new Constitution and related legislation which incorporate a number of provisions of the Covenant and purport to institute a legal environment favourable to the promotion and protection of human rights as well as the enactment of the new Electoral Code. It also takes note of the establishment of the Ministry of Human Rights which could play an important role in coordinating the Government's human rights policy.

4. Principal subjects of concern

249. The Committee notes with concern the internal disturbances in Togo during the period under review which resulted in serious and systematic violations of the rights guaranteed by the Covenant, particularly articles 4, 6, 7, 9, 10 and 14. It is particularly concerned with the fact that despite initiation of the democratic process, the rule of law has not yet been re-established in Togo and violations of human rights continue to occur. Consequently, a significant gap persists between constitutional and legal norms and their application in practice. The Committee also notes with concern in that context the manifold obstacles faced by the National Human Rights Commission, which, unfortunately, is no longer operative and which is unable to contribute to the promotion of respect for human rights.

250. The Committee deplores the large number of cases of summary and arbitrary executions, enforced or involuntary disappearances, torture and arbitrary or unlawful detention committed by members of the army, security or other forces during the period under review. It is deeply concerned that those violations were not followed by any inquiries or investigations, that the perpetrators of such acts were neither brought to justice nor punished and that the victims were not compensated. It notes that failure to exclude violators of human rights from service in the military or the security forces seriously undermines the transition to democracy.

251. The Committee is disturbed by the composition of the army, whose members are almost exclusively recruited from only one of the ethnic groups in Togo, depriving other groups of the opportunity for equitable participation. Such composition, whatever its historical background, together with the apparent lack

of full and effective control by civilian authorities over the military and security forces is a particular cause of anxiety.

252. The Committee regrets that the State party has not yet embarked on all the necessary reforms to cope with the factors and difficulties impeding equality of men and women in order to fully implement article 3 of the Covenant. The reported cases of traffic of women, the effect of certain customs and traditions, as well as the lack of effective government measures aiming at promoting equality of the sexes constitute matters of grave concern.

253. The Committee regrets the fact that derogations from some of the rights provided for in the Covenant through proclamation of curfews during the transitional period have not been notified to the Secretary-General in accordance with article 4 of the Covenant.

254. The Committee is concerned with the excessive number of offences punishable by the death penalty in the Togolese legislation which contravenes the provisions of article 6 of the Covenant.

255. The Committee notes that freedom of expression is not yet fully guaranteed in Togo owing to censorship and control exercised by the authorities over the press, radio and television.

256. The Committee notes with concern the restrictive conditions in which the rights provided for in articles 21 and 22 of the Covenant are to be exercised, and deplores the severe repression of peaceful demonstrations during the period under review involving loss of life which has not been fully investigated.

257. The Committee has serious doubts and concerns about the existing electoral system, as well as the conditions under which the presidential and legislative elections have recently taken place, which preclude the full guarantee of free choice by all voters and the participation of all citizens in the conduct of public affairs, as provided for in article 25 of the Covenant.

258. A number of additional concerns remain, including the failure to ensure full and effective application of the Covenant in matters pertaining to the enjoyment of the right to a fair trial and the rights of persons deprived of their liberty.

5. Suggestions and recommendations

259. The Committee urges the Government to proceed with national reconciliation and to restore the confidence of all ethnic groups.

260. The Committee recommends that the State party take appropriate measures to translate and disseminate the Covenant, so that all people in Togo become aware of their rights guaranteed under the Covenant.

261. The Committee urges that the Government take all necessary measures to prevent summary or arbitrary executions, enforced or involuntary disappearances, torture and ill-treatment and illegal or arbitrary detention; that all such cases be systematically investigated in order to bring those suspected of having committed such acts before the courts; and that those found guilty be punished and that the victims be compensated.

262. The Committee deems it necessary that specific measures be taken to ensure that human rights are respected by the military and security forces. Vigorous action should be taken to ensure that persons closely associated with human rights abuses do not re-enter the police, army or security forces. Urgent steps should be undertaken to ensure that the composition of the army equitably represents various ethnic groups of the Togolese population, including currently under-represented minority groups, and that the army remains subject to the control of the elected civil government.

263. The Committee exhorts the Government to take appropriate action to ensure the effective application of article 3 of the Covenant, in particular by adopting administrative and educational measures designed to break with customs and traditional practices detrimental to the well-being and status of women in Togolese society.

264. The Committee urges the authorities of Togo to revise the Criminal Code with a view to diminishing the number of offences carrying the death penalty, in conformity with article 6 of the Covenant.

265. The Committee emphasizes that measures should be taken to ensure the implementation in prisons and detention centres of all provisions of article 10 of the Covenant together with the United Nations Standard Minimum Rules for the Treatment of Prisoners. They should be more widely disseminated and observed, particularly among the personnel of the armed forces, security and police officers involved in arrest and detention matters, as well as members of the judiciary.

266. The Committee recommends that necessary measures be taken by the Government to ensure the independence and the proper functioning of the judiciary and to provide proper and adequate staffing of courts in accordance with the provisions of article 14 of the Covenant.

267. Measures should be taken to allow for a proper resumption of the activities of the National Human Rights Commission under its statutes, including the guarantee of safety of its members and proper funding.

268. The Committee recommends that the censorship and control exercised by the authorities over the press, radio and television should be brought in line with article 19 of the Covenant.

269. Measures should be taken to ensure that elections are organized in full conformity with the requirements of article 25 of the Covenant.

270. The Committee recommends that the Government of Togo avail itself of the advisory and technical assistance services of the Centre for Human Rights in order to overcome some technical difficulties in implementing the Covenant, including the preparation of the third periodic report in accordance with the Committee's guidelines.

M. Italy

271. The Committee considered the third periodic report of Italy (CCPR/C/64/Add.8) at its 1330th to 1332nd meetings, held on 11 and 12 July 1994 (see CCPR/C/SR.1330 to 1332), and adopted 29/ the following comments:

1. Introduction

272. The Committee expresses its appreciation to the State party for its elaborate and thorough report, which has been prepared in accordance with the Committee's guidelines, and for engaging, through a highly qualified delegation, in a very constructive dialogue with the Committee. It notes with satisfaction that the information provided in the report, and submitted orally by the delegation in reply to questions posed by members enabled the Committee to obtain a comprehensive view of Italy's actual compliance with the obligations undertaken under the Covenant.

2. Factors and difficulties affecting the implementation of the Covenant

273. The Committee notes the emergence in certain parts of the population of Italy of a trend towards racism and intolerance against foreigners, particularly asylum-seekers and migrant workers, and the resurgence of certain elements militating in favour of political movements reminiscent of a past when human rights were seriously violated. The Committee also notes that there are difficulties in implementing the necessary struggle against organized crime and corruption, especially in the highest spheres of power, in a manner that is compatible with the provisions of the Covenant.

3. Positive aspects

274. The Committee notes with particular satisfaction the high level of achievement in the respect of human rights in Italy and the strong commitment of the State party to the promotion and protection of human rights at both the national and the international levels. In this regard, it welcomes, in particular, the intention of the State party to accede to the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty.

275. The Committee welcomes the efforts taken by the State party to promote equal opportunities for women, particularly through the work of the Commission for Parity and Equality of Opportunities for Men and Women, and the progress achieved in improving women's participation in public affairs, professions and the private economic sector. It also welcomes the adoption, on 26 April 1993, of a law aiming at strengthening the prevention, elimination and punishment of racist acts. The Committee takes note of agreements recently concluded between the State party and certain religious denominations, as well as the proposed establishment of a special office on religious freedom. The improvements in the free legal aid scheme and the establishment of an advisory national bioethics committee are also welcomed. Moreover, the Committee appreciates the various measures taken by the State party to protect and promote the rights of persons belonging to linguistic minorities, which constitutes a positive approach to the full implementation of article 27 of the Covenant.

4. Principal subjects of concern

276. The Committee continues to regret the extent of State party's reservations to the Covenant and that it has yet not envisaged withdrawing some of them.

277. The Committee regrets that the office of the citizens' advocate has not yet been established at the national level and that similar offices do not exist in all regions of the State party. Furthermore, there do not appear to be any guidelines regarding cooperation and coordination between those different offices. These facts combined with distinctions in the powers and functions of the regional and local citizens' advocates, may cause unequal protection for individuals depending on the place where they live.

278. The Committee is concerned about cases brought to its attention of ill-treatment of persons by police and security forces in public places and police stations. The Committee is also concerned by the increasing number of cases of ill-treatment in prisons. It notes with concern that the Government does not always investigate thoroughly those cases, that torture as such is not punishable in domestic law and that, consequently, appropriate sanctions are not always imposed on those found guilty.

279. The Committee is concerned about the duration of preventive detention as provided for under the law which does not appear to be compatible with the requirements of articles 9 and 14 of the Covenant. Delays in judicial proceedings remain worrisome despite attempts at reducing them. The Committee is also concerned at the various problems faced in the administration of prisons and other detention centres, particularly overcrowding.

280. The Committee is concerned about the excessive concentration of control of the mass media in a small group of people. Furthermore, it notes that such concentration may affect the enjoyment of the right to freedom of expression and information under article 19 of the Covenant.

281. The Committee is concerned that the State party's definition of minorities is confined to linguistic minorities within its territory and that, consequently, members of other minorities may not enjoy equal protection of their rights under article 27.

5. Suggestions and recommendations

282. The Committee recommends that the State party review its reservations to the Covenant with a view to withdrawing them.

283. In view of the fact that criminal legislation does not provide for the death penalty, the Committee wishes to encourage the State party to take the necessary steps to accede to the Second Optional Protocol to the Covenant.

284. The Committee expresses the hope that the Government will undertake the necessary measures to establish a citizens' advocate office at the national level. It also recommends that, at the regional level, where this has not yet been done, citizens' advocate offices be established and that functions and powers of regional citizens' advocates be harmonized.

285. The Committee urges the State party to consider making torture a specific criminal offence. In addition, it suggests that the State party further strengthen measures to protect the rights of detainees by promptly investigating allegations of ill-treatment and ensuring that appropriate penalties are applied whenever such offences are committed; preventing the commission of such acts through efforts to ensure the stricter observance of regulations relating to the

treatment of detainees and offenders; and reducing the length of preventive detention, taking into account the principle of presumption of innocence and the complexity of the investigation. The Committee also suggests that more effective and thorough human rights training be provided to law enforcement officials and prison officers.

286. The Committee recommends that the State party re-examine the possibility of civil liability of judges in the light of the Basic Principles on the Independence of the Judiciary.

287. In order to avoid the inherent risks in the excessive concentration of control of the mass information media in a small group of people, the Committee emphasizes the importance of implementing measures to ensure impartial allocation of resources, as well as equitable access to such media, and of adopting anti-trust legislation regulating mass media.

288. The Committee recommends that the State party continue to strengthen its education and training programmes on multi-culturalism with a view to eliminating racial discrimination and advancing tolerance and understanding among peoples and races.

289. Further efforts are required to ensure the equal participation by women in public life and more effective protection of women against all forms of violence.

290. The Committee would appreciate receiving in the next periodic report information on those matters which, owing to time constraints, remained unanswered, including the legal measures taken by the State party to allow the implementation of the views of the Committee under the Optional Protocol.

N. Azerbaijan

291. The Human Rights Committee considered the initial report of Azerbaijan (CCPR/C/81/Add.2) at its 1332nd and 1336th meetings, on 12 and 14 July 1994, and adopted 28/ the following comments:

1. Introduction

292. The Committee thanks Azerbaijan for its initial report and welcomes the presence of a high-level delegation before the Committee. It notes the timely submission of the report and thanks the State party for the core document (HRI/CORE/1/Add.41/Rev.1). The Committee notes with regret, however, that, while providing detailed information on prevailing legislation in Azerbaijan, the report does not contain enough information on the way in which the Covenant is implemented in practice or on the factors and difficulties affecting the implementation of the Covenant throughout the area under the jurisdiction of Azerbaijan. The information provided orally by the delegation made good these deficiencies to some extent and provided the Committee with a better insight into the human rights situation in Azerbaijan.

2. Factors and difficulties affecting the implementation of the Covenant

293. The situation of armed conflict with a neighbouring country and the recurrent internal unrest are affecting the exercise of human rights in Azerbaijan and have given rise to a pattern of gross human rights violations. Recognized obstacles arising out of the transition from the legal order inherited from the past to a democratic system must be addressed in a manner compatible with respect for the Covenant.

3. Positive aspects

294. The Committee notes that Azerbaijan has declared that it is bound by the Covenant through a declaration of accession, though it would have been correct for it to have regarded itself as succeeding to the obligations of the Covenant as a State of the former Soviet Union. None the less, the Committee notes with appreciation that the delegation, addressing questions raised by members of the Committee, did not deny accountability for events that occurred in the country after the date of independence but before the date of accession. It also takes note of the efforts of the Government of Azerbaijan to include human rights in its new Constitution, to adopt new human rights legislation and to ensure the rule of law. It also notes that the Government has demonstrated the will to initiate far-reaching structural reforms, particularly with regard to the judiciary.

4. Principal subjects of concern

295. The Committee is concerned by the status of the Covenant within the Azerbaijani legal system and by the lack of clarity regarding the resolution of possible conflicts between the Covenant and national law. Furthermore, it does not seem possible for an individual to invoke the Covenant before the courts.

296. The Committee regrets the position adopted in the report regarding the principle of self-determination. In that connection, it recalls that, under article 1 of the Covenant, that principle applies to all peoples and not merely to colonized peoples.

297. The Committee notes that a state of emergency was declared in 1993 and is concerned by the lack of clarity in the law governing the conditions in which the state of emergency can be implemented.

298. The Committee deeply deplores the events that have occurred recently in Azerbaijan in the context of the armed conflict and have involved numerous violations of the rights guaranteed by the Covenant. There have been reports of cases of summary execution, enforced or involuntary disappearance, torture and other acts of violence against the person, as well as arbitrary detention. The practice of hostage-taking as a retaliatory measure or for bargaining purposes also seems widespread. Such violations have not been investigated and the persons responsible for them have therefore not been punished. Nor have the victims or their families been compensated.

299. The Committee is disturbed at the number of death sentences pronounced and at the lack of any appeal procedure for persons under sentence of death.

300. The Committee was disturbed by the obstacles which have thus far prevented the implementation of article 12 of the Covenant. Passport applications seem to have been rejected without proper justification. The visa requirement for some categories of persons wishing to leave the country is an unacceptable restriction on the liberty of movement and the requirement of a visa to return to Azerbaijan is contrary to article 12 of the Covenant.

301. The Committee has doubts regarding the independence and impartiality of the judiciary in Azerbaijan and deplores the fact that the "Procuratura" still exists.

302. The Committee notes with concern the lack of laws guaranteeing the right of information and the fact that the laws inherited from the former regime have not been amended to guarantee the rights provided for in article 19 of the Covenant.

303. The Committee is concerned by the power of the Ministry of Justice to refuse to register a political party or an association, which is an obstacle to the pluralism of political parties as provided for in article 25 of the Covenant.

5. Suggestions and recommendations

304. The Committee recommends that the State party revise the former legislation as soon as possible in order to introduce a democratic system more in keeping with the requirements of the Covenant.

305. The Committee urges the Government of Azerbaijan to put an end to the gross violations of human rights that have occurred and continue to occur in Azerbaijan, to conduct investigations into them, to punish the persons guilty of such acts and to compensate the victims.

306. The Committee recommends that the use of the death penalty be reduced and that provision be made for the right to appeal against a death sentence.

307. The Committee invites the Government of Azerbaijan to amend its judicial system as quickly as possible and abolish the old "Procuratura".

308. The Committee suggests that the authorities of the State party should introduce legislation guaranteeing freedom of information and of the press and, in general, freedom of expression and opinion.

309. The Committee recommends that the Government of Azerbaijan ensure the pluralism of political parties and remove obstacles to their registration.

310. The Committee recommends that the Government take account of the Committee's general comment No. 23 (50), concerning article 27 of the Covenant, in drafting legislative or regulatory texts for the full protection of the rights of individuals belonging to minorities.

311. The Committee stresses the need to improve information and education regarding human rights so as to make the public more familiar with the provisions of the Covenant. It also recommends that the authorities consider the possibility of acceding to the First Optional Protocol to the Covenant.

O. Cyprus

312. The Committee considered the second periodic report of Cyprus (CCPR/C/32/Add.18) at its 1333rd to 1335th meetings, held on 13 and 14 July 1994 (see CCPR/C/SR.1333-1335), and adopted 28/ the following comments:

1. Introduction

313. The Committee welcomes the opportunity to resume its dialogue with the Government of Cyprus while regretting that this follows a lapse in reporting of over 16 years. The Committee expresses its satisfaction with the useful information on the application of the Covenant that is contained in the second periodic report and in the annexes, as well as in the core document (HRI/CORE/1/Add.28). The Committee expresses its appreciation to the high-level delegation which presented the report and which provided the Committee with a wealth of detailed and updated additional information in response to the questions posed by Committee members.

2. Factors and difficulties affecting the implementation of the Covenant

314. The Committee notes that the State party, as a consequence of events that occurred in 1974 and resulted in the occupation of part of the territory of Cyprus, is not in a position to exercise control over all of its territory and consequently cannot ensure the application of the Covenant in areas not under its jurisdiction. The Committee also notes that, as a consequence of the same events, a number of citizens are still missing, making it impossible for the State party to provide any information about the protection of their rights. The Committee further notes that the continuing division of the country has adversely affected efforts to reduce tension among the various ethnic and religious communities which comprise the population.

3. Positive aspects

315. The Committee notes that Cyprus has constitutional provisions and democratic institutions that ensure basic respect for the rule of law and the protection of rights, and that there are non-governmental organizations active in the promotion of human rights. It welcomes the general legislative reform that has been undertaken with regard to a number of areas covered by the Covenant. In particular, the Committee takes note of new or proposed laws concerning arrest and detention procedures, incitement to racial or religious hatred, deportation of aliens, election laws, personal data, violence against women and family law, and the establishment of family courts. The Committee also takes note of the commission of inquiry on allegations and complaints against the police and the pending bill to amend the Law for the Commissioner for Administration ("Ombudsman") to include consideration of complaints of ill-treatment in his functions. The Committee also notes that the Law Commissioner is responsible for the preparation of reports under the Covenant and for taking appropriate action when provisions of the domestic law are in need of alignment with the Covenant.

4. Principal subjects of concern

316. The Committee is concerned that, while the Covenant has superior force to domestic law under the Constitution and may be invoked in the courts, there remain uncertainties in domestic law as to which provisions of the Covenant are self-executing and which might require specific legislation.

317. With respect to the right to life, the Committee is concerned that article 7 of the Constitution provides for very broad exceptions to that right and that the current instructions governing the use of force leave wide discretion to police officers. The Committee is also concerned that the domestic law allows application of the death penalty to persons between 16 and 18 years of age, in conflict with the provisions of article 6, paragraph 5, of the Covenant. The Committee notes, however, that the death penalty is not applied in practice.

318. The Committee is concerned about reported cases of torture or cruel, inhuman or degrading treatment of detainees by police and about the failure to secure conviction and punishment of any of the perpetrators. In this connection, the Committee notes with concern the extended nature of pre-trial detention in Cyprus, during which time detainees may be vulnerable to possible police abuse. The Committee is also concerned that police officers and other law enforcement officials are not provided with adequate education and training with regard to the provisions of the Covenant concerning arrest and detention procedures.

319. The Committee is concerned that under current law imprisonment may be imposed for non-payment of civil debt in certain circumstances, in violation of article 11 of the Covenant.

320. While noting that some progress has been achieved in combating discrimination against women, the Committee is concerned that some patriarchal attitudes and practices still persist which impede women from realizing full and equal enjoyment of rights.

321. The Committee is concerned about the unfair treatment accorded to conscientious objectors in Cyprus, who are subject to an excessive period of alternative service lasting 42 months, which is not compatible with the provisions of article 18 and 26 of the Covenant, and that persons may also be subject to punishment on one or more occasion for failure to perform military service.

322. The Committee is concerned about restrictions on the press, particularly with regard to seditious intent, as defined under article 47 of the Criminal Code. The Committee notes that freedom to criticize the authorities and challenge government policies are a normal and essential part of a functioning democracy.

323. The Committee is concerned that the 1958 law regulating lawful assembly and requiring permits for public assemblies is not in compliance with article 21 of the Covenant. In this regard, the Committee emphasizes that restrictions on freedom of assembly must be limited to those which are deemed necessary in conformity with the Covenant.

324. The Committee is concerned that in a number of key areas children are not adequately protected under the terms of existing legislation. In particular,

the Committee is concerned that marriageable age is defined as the onset of puberty, that criminal responsibility begins at age 7 and that persons between 16 and 18 years of age are not considered child or youthful offenders and are subject to penal sanction.

325. With respect to article 25 of the Covenant, the Committee is concerned that, because of the events mentioned in paragraph 3, elections in accordance with the 1960 Constitution could not be held since 1974 for government positions allocated to Turkish Cypriot representatives. Under such continuing circumstances, Cypriot citizens of Turkish origin cannot effectively exercise their right to vote and run for public office as guaranteed under the Covenant.

326. The Committee is concerned that public awareness of the Covenant is not sufficient nor is adequate publicity given to the availability and presentation of its reports under the Covenant. In this connection, the lack of cases invoking the provisions of the Covenant in the courts, as well as the lack of communications filed under the First Optional Protocol, seem to indicate that awareness of the Covenant and the Optional Protocol is not high among judges or members of the bar.

5. Suggestions and recommendations

327. The Committee recommends that the legislative reforms presently under way be expanded and accelerated in order to ensure that all relevant legislation, including the Criminal Code and administrative procedures are in conformity with the requirements of the Covenant. In expanding the review, the Committee recommends that its general comments be used as a guide to the application of the Covenant. In this connection, the Committee suggests that the presumption of innocence should be expressly stipulated in the Penal Code. In addition, the relevant laws and legislation concerning imprisonment for civil debt and restrictions on freedom of expression and freedom of assembly should be amended to conform with the requirements of the Covenant.

328. The Committee recommends that the Government of Cyprus consider becoming a party to the Second Optional Protocol as soon as possible.

329. The Committee recommends that steps be taken to ensure investigation of all allegations of torture or mistreatment of detainees and the prosecution and punishment of all persons guilty of such acts. The length of pre-trial detention should be significantly shortened to accord with the Covenant and adequate training should be provided for all law enforcement officials to promote observance of the protection afforded by the Covenant. Instructions on the use of force by police should be updated to conform with the requirements of the Covenant and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

330. The Committee recommends that the laws concerning conscientious objectors be amended in order to ensure their fair treatment under the law and to reduce the excessively lengthy period of alternative national service and the possibility of repeated punishment.

331. With respect to the equality and rights of women, the Committee recommends that affirmative measures be taken to ensure their participation in the political process and that the new laws concerning domestic violence be closely monitored to ensure their effective application.

332. With respect to article 24 of the Covenant, the Committee recommends that existing laws concerning the protection of children be reviewed and amended as necessary to conform with the requirements of the Covenant. In particular, the minimum age for marriage, criminal responsibility, penal sanction and the imposition of the death penalty should be changed to conform with present international standards and the spirit of article 24, paragraph 1, of the Covenant.

333. The Committee recommends that measures be taken to ensure greater public awareness of the provisions of the Covenant and the Optional Protocol and that the legal profession as well as judicial and administrative authorities have detailed information on those instruments in order to ensure their effective application. The Committee also recommends that adequate publicity be given to the second periodic report and its consideration by the Committee, including these comments, in order to stimulate greater interest in the Covenant in Cyprus.

P. Slovenia

334. The Committee considered the initial report of Slovenia (CCPR/C/74/Add.1) at its 1343rd and 1347th meetings, held on 20 and 22 July 1994, and adopted 30/ the following comments:

1. Introduction

335. The Committee welcomes the initial report (CCPR/C/74/Add.1) and the core document (HRI/Core/1/Add.35) of Slovenia and expresses its deep appreciation to the State party for the constructive dialogue engaged through a high ranking delegation. The Committee regrets that the report did not provide sufficient information on the implementation of the Covenant in practice and that it was not drawn up in accordance with the Committee's guidelines for the preparation of State party reports (CCPR/C/20/Rev.1). The Committee notes, however, that the comprehensive additional information provided by the delegation in its introductory statement and in the replies given to questions raised in the course of the discussion enabled the Committee to obtain a clearer picture of the human rights situation in the country and make appropriate recommendations.

2. Factors and difficulties affecting the implementation of the Covenant

336. The Committee recognizes that Slovenia was created after the breakdown of the former Yugoslavia and declared its independence only in 1991. The Committee further recognizes that the remnants of authoritarian rule have not yet been overcome and that several steps remain to be undertaken in consolidating and developing democratic institutions and strengthening the implementation of the Covenant. Recognized obstacles stemming from the continuing armed conflict close to the borders of Slovenia and the consequent influx of refugees, as well as the intensity of the ethnic and religious conflicts in former Yugoslavia, must be addressed in a manner compatible with respect for the Covenant.

3. Positive aspects

337. The Committee welcomes the fact that transition towards democracy and pluralism has started in Slovenia.

338. The Committee notes with appreciation the efforts undertaken to incorporate human rights in the Constitution and to harmonize the national laws with the Constitution, even though this process has not been completed.

339. The Committee notes with appreciation the attitude of Slovenia regarding its succession to the obligations of former Yugoslavia under the Covenant, in declaring that it succeeded as from the date of its independence. In this context, the Committee has also noted the statement of the delegation that victims of violations of human rights committed by the former regime are entitled to remedy by the new State. The Committee welcomes the fact that Slovenia also became a party to a number of international human rights instruments, including the First and Second Optional Protocols to the Covenant.

340. The Committee also welcomes the abolition of the death penalty and the creation of the Office of the Ombudsman with authority to make recommendations to safeguard the observance of human rights.

4. Principal subjects of concern

341. The Committee is concerned that, while the Covenant may be given precedence over legislative acts, its status *vis-à-vis* the Constitution is not clearly defined. There appears to be little publicity given to the provisions of the Covenant and the Optional Protocols and the Covenant has yet not been invoked before the courts. The process of harmonization of national laws with the Constitution has not yet been completed and does not take into direct account provisions of the Covenant.

342. The Committee expresses its concern about remaining areas of discrimination against women, particularly regarding the extent of their participation in the conduct of public affairs, and the lack of information about violence against women.

343. The Committee notes with concern that the length of pre-trial detention, which may extend up to six months under certain circumstances, does not comply with the requirements of articles 9 and 14 of the Covenant.

344. The Committee is concerned by the provision in the Code of Criminal Procedure under which in specific cases accused juvenile persons are not separated from adults, which may raise issues under article 10 of the Covenant.

345. The Committee notes that the State party singles out Italians and Hungarians for special protection as minorities, including the right to political representation. Gypsies are also granted certain special protection as a minority. While this protection is welcome, all minorities are entitled to protection of their rights under article 27. Immigrant communities constituting minorities under the meaning of article 27 are entitled to the benefit of that article.

346. The Committee is concerned about the provisions of article 5 of the Constitution relating to the protection of only ethnic Slovene emigrants and

migrant workers, which, implicitly, tend to establish a privileged treatment in the Constitution for such Slovenes over other Slovene citizens living abroad.

5. Suggestions and recommendations

347. The Committee recommends that the legislative reforms presently under way in Slovenia be expanded and intensified in order to ensure that all relevant legislation is in conformity not only with the requirements of the Constitution but also with the Covenant.

348. The Committee emphasizes that the text of the Covenant and the Optional Protocols should be translated into all languages spoken in Slovenia and widely publicized so that the general public may be made fully aware of the rights enshrined in the provisions of those instruments.

349. With respect to the rights of women, the Committee believes that affirmative measures should be taken to strengthen their participation in the conduct of public affairs and in the economic and social life of the country, as well as to ensure effective protection against violence of all kinds.

350. The Committee calls upon the State party to ensure that the maximum period of pre-trial detention is significantly shortened in order to comply with the requirements of articles 9 and 14 of the Covenant.

351. With reference to freedom of conscience and religion, including the issue of religious education, the Committee recommends that the State party take into account the Committee's general comment No. 22 (48) on article 18 of the Covenant.

352. The Committee calls upon the State party to take appropriate measures to ensure the full and equal enjoyment by all persons belonging to minorities of their rights under article 27 of the Covenant. It must also ensure that all persons, including members of minorities, are entitled to receive the guarantees laid down in articles 25 and 26 of the Covenant. In this connection, the State party should take into account the recommendations contained in the Committee's general comment No. 23 (50) on article 27 of the Covenant.

353. The Committee urges the Government to prepare its second periodic report in compliance with the Committee's guidelines for the preparation of State party reports (CCPR/C/20/Rev.1). The report should, in particular, include detailed information on the extent to which each right protected under the Covenant is enjoyed in practice and should refer to specific factors and difficulties that might impede its application.

Q. Burundi

354. In the light of past and continuing events in Burundi affecting the human rights guaranteed under the International Covenant on Civil and Political Rights, and in accordance with article 40, paragraph 1 (b), of the Covenant, the Committee requested the Government of Burundi on 29 October 1993 to submit a report, not later than 31 January 1994, if necessary in summary form, describing in particular the implementation of articles 4, 6, 7, 9, 12 and 25 of the Covenant during the current period, for consideration by the Committee at its fiftieth session.

355. At its fiftieth session, the Committee noted that the report requested had not been submitted by the Government of Burundi and, through its Chairman, asked for it to be submitted to the Committee for consideration at its fifty-first session. In response to this request, the Government of Burundi submitted a report on 12 July 1994 (CCPR/C/98), which was considered by the Committee at its 1349th and 1350th meetings, on 25 July 1994. The Committee adopted 30/ the following comments:

1. Introduction

356. The Committee thanks the State party for its report and welcomes the presence before the Committee of a high-level delegation. The Committee notes with regret, however, that while providing some information on the implementation of articles 4, 6, 7, 9, 12 and 25 of the Covenant, the report does not contain enough information on the situation obtaining in the country and the difficulties affecting the application of the Covenant. The information provided orally by the delegation made good those deficiencies and provided the Committee with better insight into the human rights situation in Burundi.

2. Factors and difficulties affecting the application of the Covenant

357. The Committee notes that, since its accession to independence, Burundi has regularly had to contend with serious conflicts between the Hutu majority and the Tutsi minority, largely attributable to socio-political difficulties inherited from the past. Those conflicts, particularly the most recent one in the autumn of 1993, following the assassination of the President of the Republic, have been marked by gross violations of human rights. The lack of effective measures following such events, as well as the de facto impunity enjoyed, regardless of rank, by members of the army, police, gendarmerie, security forces or administration responsible for serious violations of human rights, are obstacles to the restoration of lasting peace and to the halting of the cycle of violence between the Hutu majority and the Tutsi minority.

358. The dominance in the army, the police, the gendarmerie, the security forces, the judicial system and, generally, in the most senior civil-service posts of persons belonging to a minority group is a factor constantly and seriously affecting the application of the Covenant and one which continually arouses the fears of the majority of the population. The recent unrest on an unprecedented scale in a neighbouring country (Rwanda), which has resulted in a massive influx of refugees into Burundi, is a further difficulty likely to have extremely negative effects on the application of the Covenant in that country.

3. Positive aspects

359. The authorities have made an effort to consider a number of measures to restore civil peace and harmony among the various elements of the Burundi population, although those efforts do not for the time being seem to have had concrete effects.

360. The Committee also notes that foreign non-governmental organizations have been allowed to conduct inquiries into human rights violations in Burundi without hindrance.

4. Principal subjects of concern

361. The Committee deplores the massacres following clashes between Hutus and Tutsis that have occurred in Burundi since its consideration of the initial report in October 1992 and the increasingly serious obstacles to the peaceful coexistence of the various elements of the Burundi population. The attempts to restore civil peace, to assuage the tensions of daily life in society and to redress the balance in the various State institutions, particularly the army, the police, the gendarmerie, the security forces and the judiciary, so as to make them more representative of the various elements of the population, have clearly failed. The Committee deplores the pattern of gross violations of human rights in the form of numerous summary executions, disappearances and instances of torture which occurred following the events of autumn 1993. The army, the police, the gendarmerie and the security forces have continued to be responsible for many violations of human rights. The civilian population continues to be armed and further violations of human rights are to be feared.

362. The Committee deplores the lack of any inquiry into the above-mentioned violations. As a result, the perpetrators have remained unpunished and continue to perform, and sometimes to abuse, their functions in the army, police, gendarmerie or security forces. The victims or their families have received no compensation of any kind. The judiciary has shown itself incapable of carrying out its duties independently and impartially and has been unable to initiate the necessary investigations or bring those responsible to trial. Furthermore, the fact that the commissions of inquiry recently set up to identify those responsible for human rights violations consist of individuals belonging to only one of the country's population groups is a source of serious concern and has served only to shake the population's confidence in the authorities and exacerbate strife and violence between the various population groups.

363. The Committee deplores the fact that the provisions of the Covenant not referred to in the Committee's decision have also been the subject of serious violations. In particular, the use of the media to incite hostility and violence among the various population groups constitutes a clear violation of the provisions of article 20 of the Covenant.

5. Suggestions and recommendations

364. The Committee urges the State party to initiate without delay a process of national reconciliation. This process should be accompanied by various specific measures such as the establishment of commissions of inquiry made up of members of each of the country's population groups. Impartial foreign observers could participate in the inquiries in order to identify those responsible for gross violations of human rights in the autumn of 1993, to bring them to trial and punish them and to remove all persons involved in such crimes from the various State bodies, particularly the army, the police, the gendarmerie and the security forces. The victims and their families should also be compensated.

365. The Committee suggests using the media to promote national reconciliation and harmony among Burundi's various population groups. Strenuous efforts should be made to educate and inform the whole of Burundi society regarding human rights. This campaign should take account of Burundi's traditions and customs, including the role of mothers in educating their children.

366. The Committee believes that it is essential to take urgent measures to reorganize public institutions so as to ensure balanced participation by all population groups in the conduct of public affairs and to permit all citizens, without distinction, to have access to public service, in the administration, the army, the police, the gendarmerie, the security forces and the judiciary. In addition, the Committee considers that the army should be brought under the effective control of the civilian authorities. The judiciary and the civil service should also be opened immediately to those groups, so that they can be seen by the population to be impartial and representative of the population as a whole, thus restoring some degree of public confidence in national institutions.

367. In view of the considerable difficulties encountered by the State party in implementing the Covenant, the gross violations of human rights that occurred in autumn 1993 and the serious danger of a recurrence of such violations, the Committee is of the view that in its efforts at internal pacification and national reconciliation, Burundi should receive the resolute support of the international community.

368. The Committee recommends that the United Nations High Commissioner for Human Rights continue to make strenuous efforts to help Burundi avoid any future recurrence of gross violations of human rights, for example, by encouraging the establishment of international investigation machinery.

369. The Committee encourages the High Commissioner for Human Rights and the Centre for Human Rights in their efforts to provide advisory services and technical assistance in the field of human rights.

370. The Committee, for its part, is ready to respond constructively to any appropriate request for assistance by the Government of Burundi, provided that it is clear and accompanied by a firm resolve on the part of the Government to adopt the measures necessary for the effective implementation of the Covenant.

VII. GENERAL COMMENTS OF THE COMMITTEE

Work on general comments

371. At its forty-ninth session, the Committee began discussion of a draft general comment on article 27 of the Covenant. It considered that general comment at its 1275th, 1294th, 1295th, 1301st, 1313rd and 1314th meetings, during its forty-ninth and fiftieth sessions, on the basis of successive drafts revised by its working group in the light of the comments and proposals advanced by members. The Committee adopted its general comment on article 27 at its 1314th meeting, held on 6 April 1994 (see annex V). Pursuant to the request of the Economic and Social Council, the Committee decided to transmit the general comment on article 27 to the Council during its substantive session of 1994.

372. At its fifty-first session, the Committee noted that a draft general comment on article 25 of the Covenant had been submitted to it by its working group.

373. At the same session, the Committee noted that an open-ended working group composed of members of the pre-sessional working group on article 40 and other members who wished to express their opinion had begun consideration of a draft general comment that would address issues relating to reservations made upon ratification or accession to the Covenant or Optional Protocols thereto, or in relation to declarations under article 41 of the Covenant. It further noted that a revised draft would be considered by the working group for consideration by the Committee at its fifty-second session.

VIII. CONSIDERATION OF COMMUNICATIONS UNDER THE OPTIONAL PROTOCOL

374. Individuals who claim that any of their rights under the International Covenant on Civil and Political Rights have been violated, and who have exhausted all available domestic remedies, may submit written communications to the Human Rights Committee for consideration under the Optional Protocol. Of the 127 States that have ratified or acceded to the Covenant, 77 have accepted the Committee's competence to deal with individual complaints by becoming parties to the Optional Protocol (see annex I, sect. B). Since the Committee's last report to the General Assembly, four States have ratified or acceded to the Optional Protocol: Belgium, Georgia, Germany and Latvia. No communication can be examined by the Committee if it concerns a State party to the Covenant that is not also a party to the Optional Protocol.

375. Consideration of communications under the Optional Protocol is confidential and takes place in closed meetings (art. 5, para. 3, of the Optional Protocol). All documents pertaining to the work of the Committee under the Optional Protocol (submissions from the parties and other working documents of the Committee) are confidential. Rules 96 to 99 of the Committee's rules of procedure regulate the confidentiality of documents. 31/ The texts of final decisions of the Committee, consisting of views adopted under article 5, paragraph 4, of the Optional Protocol, are, however, made public. As regards decisions declaring a communication inadmissible (which are also final), the Committee has decided that it will normally make these decisions public (see annex X).

A. Progress of work

376. The Committee started its work under the Optional Protocol at its second session, in 1977. Since then, 587 communications concerning 44 States parties have been registered for consideration by the Committee, including 35 placed before it during the period covered by the present report.

377. The status of the 587 communications registered for consideration by the Human Rights Committee so far is as follows:

(a) Concluded by views under article 5, paragraph 4, of the Optional Protocol: 193;

(b) Declared inadmissible: 201;

(c) Discontinued or withdrawn: 94;

(d) Declared admissible, but not yet concluded: 31;

(e) Pending at the pre-admissibility stage: 68.

378. In addition, the secretariat of the Committee has several hundred communications on file, in respect of which the authors have been advised that further information would be needed before their communications could be registered for consideration by the Committee. The authors of a large number of additional communications have been informed that the Committee will not consider their cases, as they fall clearly outside the scope of the Covenant or appear to be frivolous.

379. Two volumes containing selected decisions of the Human Rights Committee under the Optional Protocol, from the second to the sixteenth sessions and from the seventeenth to the thirty-second sessions, respectively, have been published (CCPR/C/OP/1 and 2).

380. During the forty-ninth to fifty-first sessions, the Committee concluded consideration of 32 cases by adopting views thereon. These are cases Nos. 321/1988 (Maurice Thomas v. Jamaica), 322/1988 (Hugo Rodríguez v. Uruguay), 328/1988 (Roberto Zelaya Blanco v. Nicaragua), 330/1988 (Albert Berry v. Jamaica), 332/1988 (Devon Allen v. Jamaica), 333/1988 (Lenford Hamilton v. Jamaica), 352/1989 (Dennis Douglas, Errol Gentles and Lorenzo Kerr v. Jamaica), 353/1988 (Lloyd Grant v. Jamaica), 355/1989 (George Winston Reid v. Jamaica), 366/1989 (Isidore Kanana v. Zaire), 375/1989 (Glenmore Compass v. Jamaica), 377/1989 (Anthony Currie v. Jamaica), 412/1990 (Auli Kivenmaa v. Finland), 407/1990 (Dwayne Hylton v. Jamaica), 414/1990 (Primo José Essono Mika Miha v. Equatorial Guinea), 417/1990 (Manuel Balaguer Santacana v. Spain), 418/1990 (C. H. J. Cavalcanti Araujo-Jongen v. the Netherlands), 425/1990 (A. M. M. Doesburg Lannoiij Neefs v. the Netherlands), 428/1990 (François Bozize v. the Central African Republic), 440/1990 (El-Megreisi v. the Libyan Arab Jamahiriya), 441/1990 (Robert Casanovas v. France), 445/1991 (Lynden Champagnie *et al*. v. Jamaica), 449/1991 (Rafael Mojica v. Dominican Republic), 451/1991 (Barry Stephen Harward v. Norway), 455/1991 (Allan S. Singer v. Canada), 456/1991 (Ismet Celepli v. Sweden), 458/1991 (Albert Womah Mukong v. Cameroon), 468/1991 (Angel N. Oló Bahamonde v. Equatorial Guinea), 469/1991 (Charles Chitat Ng v. Canada), 484/1991 (H. J. Pepels v. the Netherlands), 488/1992 (Nicholas Toonen v. Australia) and 492/1992 (Lauri Peltonen v. Finland). The texts of the views in these 32 cases are reproduced in annex IX.

381. The Committee also concluded consideration of 30 cases by declaring them inadmissible. 32/ These are cases Nos. 384/1989 (R. M. v. Trinidad and Tobago), 421/1990 (Thierry Trébutien v. France), 431/1990 (O. Sara *et al*. v. Finland), 433/1990 (A. P. A. v. Spain), 436/1990 (Manuel Solís Palma v. Panama), 452/1990 (Jean Glaziou v. France), 471/1991 (Theophilus Barry v. Trinidad and Tobago), 475/1991 (S. B. v. New Zealand), 476/1991 (R. M. v. Trinidad and Tobago), 477/1991 (J. A. M. B-R. v. the Netherlands), 487/1992 (Walter Rodríguez Veiga v. Uruguay), 489/1989 (Peter Bradshaw v. Barbados), 497/1992 (Odia Amisi v. Zaire), 498/1992 (Zdenek Drbal v. the Czech Republic), 502/1992 (S. M. v. Barbados), 504/1992 (Denzil Roberts v. Barbados), 509/1992 (A. R. U. v. the Netherlands), 510/1992 (P. J. N. v. the Netherlands), 517/1992 (Curtis Lambert v. Jamaica), 520/1992 (E. and A. K. v. Hungary), 522/1992 (J. S. v. the Netherlands), 524/1992 (E. C. W. v. the Netherlands), 534/1993 (H. T. B. v. Canada), 544/1993 (K. J. L. v. Finland), 548/1993 (R. E. d. B. v. the Netherlands), 559/1993 (J. M. v. Canada), 565/1993 (R. and M. H. v. Italy), 567/1993 (Ponsamy Poongavanam v. Mauritius), 568/1993 (K. and C. V. v. Germany) and 570/1993 (M. A. B., W. A. T. and J.-A. Y. T. v. Canada).

382. During the period under review, 26 communications were declared admissible for examination on the merits. Decisions declaring communications admissible are not made public. Consideration of seven cases was discontinued. Procedural decisions were adopted in a number of pending cases (under article 4 of the Optional Protocol or under rules 86 and 91 of the Committee's rules of procedure). The Committee requested secretariat action in other pending cases.

B. Growth of the Committee's case-load under the Optional Protocol

383. As the Committee has already stated in previous annual reports, the increasing number of States parties to the Optional Protocol and better public awareness of the Committee's work under the Optional Protocol have led to a growth in the number of communications submitted to it. In addition, the secretariat took action on several hundred cases which, for one reason or another, were not registered under the Optional Protocol and placed before the Committee. Furthermore, follow-up activities are required in the majority of the 142 cases in which the Committee found violations of the Covenant. This workload means that the Committee can no longer examine communications expeditiously and highlights the urgent need to reinforce the secretariat staff. The Human Rights Committee reiterates its request to the Secretary-General to take the necessary steps to ensure a substantial increase in the number of staff, specialized in the various legal systems, assigned to service the Committee, and wishes to record that the work under the Optional Protocol continues to suffer as a result of insufficient secretariat resources.

384. In order to reduce the backlog of pending communications, the Committee met for an extra week during its fifty-first session, during which the Committee adopted 16 views and 11 decisions declaring communications inadmissible, thereby reducing the backlog of pending cases. However, the failure to provide more staff for the preparation of this extended session resulted in an increased backlog in the secretariat's handling of incoming communications and consequently in a decreased number of newly registered cases.

C. New approaches to examining communications under the Optional Protocol

385. In view of the growing case-load, the Committee has been applying new working methods to enable it to deal more expeditiously with communications under the Optional Protocol.

1. Special Rapporteur on new communications

386. At its thirty-fifth session, the Committee decided to designate a Special Rapporteur to process new communications as they were received, i.e. between sessions of the Committee. Mrs. Rosalyn Higgins served as Special Rapporteur for a period of two years. At its forty-first session, the Committee designated Mr. Rajsoomer Lallah to succeed Mrs. Higgins for a period of one year; at the forty-fourth session, his mandate was renewed by the Committee for an additional year. At its forty-seventh session, the Committee appointed Ms. Christine Chanet to succeed Mr. Lallah; at the fiftieth session, her mandate was renewed for an additional year. Since the end of the forty-eighth session, the Special Rapporteur has transmitted 26 new communications to the States parties concerned under rule 91 of the Committee's rules of procedure, requesting information or observations relevant to the question of admissibility. In some cases, the Special Rapporteurs issued requests for interim measures of protection pursuant to rule 86 of the Committee's rules of procedure. Regarding other communications, the Special Rapporteurs recommended to the Committee that the communications be declared inadmissible without forwarding them to the State party.

2. Competence of the Working Group on Communications

387. At its thirty-sixth session, the Committee decided to authorize the Working Group on Communications to adopt decisions declaring communications admissible when all five members so agreed. Failing such agreement, the Working Group would refer the matter to the Committee. It could also do so whenever it believed that the Committee itself should decide the question of admissibility. While the Working Group could not adopt decisions declaring communications inadmissible, it might make recommendations in that respect to the Committee. Pursuant to those rules, the Working Groups on Communications that met previous to the forty-ninth, fiftieth and fifty-first sessions of the Committee declared 26 communications admissible.

D. Individual opinions

388. In its work under the Optional Protocol, the Committee strives to arrive at its decisions by consensus. However, pursuant to rule 94, paragraph 3, of the Committee's rules of procedure, members can add their individual concurring or dissenting opinions to the Committee's views. Pursuant to rule 92, paragraph 3, members can append their individual opinions to the Committee's decisions declaring communications inadmissible.

389. During the sessions covered by the present report, individual opinions were appended to the Committee's views in cases Nos. 412/1990 (Auli Kivenmaa v. Finland), 417/1990 (Manuel Balaguer Santacana v. Spain), 469/1991 (Charles Chitat Ng v. Canada), 488/1992 (Nicholas Toonen v. Australia) and 492/1992 (Lauri Peltonen v. Finland), as well as to the Committee's decisions declaring communications inadmissible in cases Nos. 433/1989 (A. P. A. v. Spain), 477/1991 (J. A. M. B.-R. v. the Netherlands), 498/1992 (Zdenek Drbal v. the Czech Republic) and 520/1992 (E. and A. K. v. Hungary).

E. Issues considered by the Committee

390. For a review of the Committee's work under the Optional Protocol from its second session in 1977 to its forty-eighth session in 1993, the reader is referred to the Committee's annual reports for 1984 to 1993, which, inter alia, contain summaries of the procedural and substantive issues considered by the Committee and of the decisions taken. The full texts of the views adopted by the Committee and of its decisions declaring communications inadmissible under the Optional Protocol have been reproduced regularly in annexes to the Committee's annual reports.

391. The following summary reflects further developments on issues considered during the period covered by the present report.

1. Procedural issues

(a) The concept of victim (art. 1 of the Optional Protocol)

392. Under article 1 of the Optional Protocol, individuals who claim to be victims of violations by a State party of any of the rights set forth in the Covenant may submit communications to the Committee. In case No. 502/1992 (S. M. v. Barbados), the owner and sole shareholder of a company claimed that he

was a victim of a violation of article 14, paragraph 1, of the Covenant, because of alleged procedural irregularities in a lawsuit law to which his company was a party. The Committee considered that the author was essentially claiming violations of the rights of his company, which had its own legal personality, and concluded that the author had no standing under article 1 of the Optional Protocol.

393. In its decision declaring communication No. 565/1993 (R. and M. H. v. Italy) inadmissible, the Committee noted that the author had not shown that he was authorized to act on behalf of the alleged victims and concluded that he had no standing under article 1 of the Optional Protocol. A similar conclusion was reached in case No. 436/1990 (Manuel Solís Palma v. Panama).

394. Communications Nos. 477/1991 (J. A. M. B.-R. v. the Netherlands) and 567/1993 (Ponsamy Poongavanam v. Mauritius) were also, inter alia, declared inadmissible under article 1 of the Optional Protocol.

(b) No claim under article 2 of the Optional Protocol

395. Article 2 of the Optional Protocol provides that "individuals who claim that any of their rights enumerated in the Covenant have been violated and who have exhausted all available domestic remedies may submit a written communication to the Committee for consideration".

396. Although an author does not need to prove the alleged violation at the admissibility stage, he must submit sufficient evidence substantiating his allegation for purposes of admissibility. A "claim" is, therefore, not just an allegation, but an allegation supported by a certain amount of substantiating evidence. Thus, in cases where the Committee finds that the author has failed to substantiate his claim for purposes of admissibility, the Committee has held the communication inadmissible, according to rule 90 (b) of its rules of procedure, declaring that the author "has no claim under article 2 of the Optional Protocol".

397. In case No. 477/1991 (J. A. M. B.-R. v. the Netherlands), the author claimed to be a victim of discrimination because she was not granted a retroactive social security benefit. The Committee observed that article 26 of the Covenant does not of itself require States parties to provide social security benefits or to provide them retroactively, but that, if such benefits are regulated by law, such a law must comply with article 26. In the instant case, the Committee noted that the law in question did not, as a rule, provide for retroactive benefits. The Committee considered:

> "The author has failed to substantiate, for purposes of admissibility, that these provisions were not equally applied to her, in particular that men who belatedly apply are granted wider retroactive benefits, as from the date on which they have become eligible for benefits, whereas she, as a woman, was denied such benefits. Accordingly, the Committee finds that the author has failed to substantiate her claim under article 2 of the Optional Protocol in this regard" (see annex X, sect. J, para. 5.4).

398. Other cases declared inadmissible, inter alia, for lack of substantiation of the claim or failure to advance a claim, are communications Nos. 384/1989 (R. M. v. Trinidad and Tobago), 471/1991 (Theophilus Barry v. Trinidad and Tobago), 475/1991 (S. B. v. New Zealand), 497/1992 (Odia Amisi v. Zaire), 509/1992 (A. R. U. v. the Netherlands), 510/1992 (P. J. N. v. the Netherlands),

517/1992 (Curtis Lambert v. Jamaica), 522/1992 (J. S. v. the Netherlands), 524/1992 (E. C. W. v. the Netherlands), 548/1993 (R. E. d. B. v. the Netherlands), 544/1993 (K. J. L. v. Finland), 559/1993 (J. M. v. Canada), 567/1993 (Ponsamy Poongavanam v. Mauritius) and 570/1993 (M. A. B., W. A. T. and J.-A. Y. T. v. Canada).

(c) Competence of the Committee and incompatibility with the provisions of the Covenant (Optional Protocol, art. 3)

399. In its work under the Optional Protocol, the Committee has had several occasions to point out that it is not a further court of appeal on the domestic law of States parties against whom communications are brought.

400. In case No. 476/1991 (R. M. v. Trinidad and Tobago), the author, who had been sentenced to death, had complained that his trial was unfair and that the judge had misdirected the jury on several issues. The Committee decided that the communication was inadmissible under article 3 of the Optional Protocol. It found that the author's claims did not come within the competence of the Committee, as they related primarily to the judge's instructions to the jury and the evaluation of evidence by the court. The Committee recalled that it was generally for the appellate courts of States parties to the Covenant and not for the Committee to evaluate the facts and evidence and to review specific instructions to the jury by the judge, unless it can be ascertained that the instructions were arbitrary or amounted to a denial of justice, or that the judge manifestly violated his obligation of impartiality.

401. The Committee reached a similar conclusion with regard to cases Nos. 384/1989 (R. M. v. Trinidad and Tobago), 471/1991 (Theophilus Barry v. Trinidad and Tobago) and 567/1993 (Ponsamy Poongavanam v. Mauritius). Other cases declared inadmissible, inter alia, because of incompatibility with the provisions of the Covenant, within the meaning of article 3 of the Optional Protocol, are communications Nos. 498/1992 (Zdenek Drbal v. the Czech Republic), 509/1992 (A. R. U. v. the Netherlands), 510/1992 (P. J. N. v. the Netherlands), 517/1992 (Curtis Lambert v. Jamaica), 522/1992 (J. S. v. the Netherlands), 534/1993 (H. T. B. v. Canada), 544/1993 (K. J. L. v. Finland), 568/1993 (K. and C. V. v. Germany) and 570/1993 (M. A. B., W. A. T. and J.-A. Y. T. v. Canada).

(d) No simultaneous examinations of the same matter (Optional Protocol, art. 5, para. 2(a))

402. Article 5, paragraph 2(a), of the Optional Protocol precludes the Committee from considering a communication if the same matter is being examined under another procedure of international investigation or settlement. Only the simultaneous examination of a case is precluded, however, and the Committee is, in principle, competent to consider cases that have been examined elsewhere, unless the State party has made a reservation upon ratification of or accession to the Optional Protocol precluding consideration of the same matter. Thus, while the Committee has declared inadmissible, on the basis of pertinent reservations, cases examined by the European Commission of Human Rights, it has considered a number of cases previously examined by the Commission and subsequently submitted to the Committee against States that have not made such a reservation.

403. In the period covered by the present report, the Committee declared inadmissible communications Nos. 421/1990 (Thierry Trébutien v. France) and 452/1991 (Jean Glaziou v. France) because of the reservation made by France upon

ratifying the Optional Protocol to the effect that the Human Rights Committee shall not have the competence to consider a communication from an individual if the same matter is being or has already been examined under another procedure of international investigation or settlement. Both complainants had already filed applications with the European Commission of Human Rights that had been declared inadmissible. The Committee decided that in the circumstances it was precluded from considering the communications.

(e) The requirement of exhaustion of domestic remedies (Optional Protocol, art. 5, para. 2 (b))

404. Pursuant to article 5, paragraph 2 (b), of the Optional Protocol, the Committee shall not consider any communication unless it has ascertained that the author has exhausted all available domestic remedies. However, the Committee has already established that the rule of exhaustion applies only to the extent that these remedies are effective and available. The State party is required to give "details of the remedies which it submitted that had been available to the author in the circumstances of his case, together with evidence that there would be a reasonable prospect that such remedies would be effective" (case No. 4/1977 (Torres Ramírez v. Uruguay)). The rule also provides that the Committee is not precluded from examining a communication if it is established that the application of the remedies in question is unreasonably prolonged.

405. In case No. 431/1990 (O. Sara *et al*. v. Finland), the Committee reviewed its earlier decision of admissibility on the basis of further information received from the parties, and considered that:

> "... the authors' doubts about the courts' readiness to entertain claims based on article 27 of the Covenant do not justify their failure to avail themselves of possibilities of domestic remedies which the State party has plausibly argued are available and effective" (see annex X, sect. C, para. 8.3).

Consequently, the Committee set aside its previous decision and declared the communication inadmissible.

406. Communications Nos. 433/1989 (A. P. A. v. Spain), 489/1992 (Peter Bradshaw v. Barbados) and 504/1992 (Denzil Roberts v. Barbados) were also declared inadmissible for failure to pursue available and effective domestic remedies.

(f) Inadmissibility ratione temporis

407. As at previous sessions, the Committee was faced with communications based on events that occurred prior to the entry into force of the Optional Protocol for the State concerned. The criterion of admissibility has been whether the events have had continued effects which themselves constitute violations of the Covenant after the entry into force of the Optional Protocol.

408. In its decision on communication No. 520/1992 (E. and A. K. v. Hungary), the Committee noted that:

> "... the State party's obligations under the Covenant apply as of the date of its entry into force for the State party. There is, however, a different issue as to when the Committee's competence to consider complaints about alleged violations of the Covenant under the Optional Protocol is engaged. In its jurisprudence under the Optional Protocol, the

> Committee has held that it cannot consider alleged violations of the Covenant which occurred before the entry into force of the Optional Protocol for the State party, unless the violations complained of continue after the entry into force of the Optional Protocol. A continuing violation is to be interpreted as an affirmation, after the entry into force of the Optional Protocol, by act or clear implication, of the previous violations of the State party" (see annex X, sect. T, para. 6.4).

In this particular case, the Committee considered that it was not possible to speak of such continuing affirmation; accordingly, the communication was declared inadmissible.

409. The Committee likewise declared inadmissible communication No. 568/1993 (K. and C. V. v. Germany), which concerned events that occurred between 1985 and 1992 and therefore prior to the entry into force of the Optional Protocol for Germany on 25 November 1993.

(g) Interim measures under rule 86

410. Under rule 86 of the Committee's rules of procedure, the Committee may, after receipt of a communication and before adopting its views, request a State party to take interim measures in order to avoid irreparable damage to the victim of the alleged violations. The Committee has applied this rule on several occasions, notably in cases submitted by or on behalf of persons who have been sentenced to death and are awaiting execution, and who claim that they were denied a fair trial. In view of the urgency of the communications, the Committee has requested the States parties concerned not to carry out the death sentences while the cases are under consideration. Stays of execution have specifically been granted in this connection.

411. On 13 July 1994, the Special Rapporteur for New Communications transmitted a request under rule 86 to the authorities of Trinidad and Tobago in the case of Glen Ashby (communication No. 580/1994), a prisoner under sentence of death scheduled to be executed on 14 July 1994. The State party was requested not to execute Mr. Ashby while his case was under consideration by the Committee. Notwithstanding this request, Mr. Ashby was executed in the morning of 14 July 1994. The Committee invited the State party to explain the reasons for non-compliance with the Special Rapporteur's request under rule 86. As no explanations were received from the State party, the Committee adopted a formal decision on the matter during a public meeting held on 26 July 1994, expressing its indignation at the State party's failure to comply with the request under rule 86, and calling upon the State party to ensure that situations similar to that surrounding the execution of Mr. Ashby do not recur. The decision read as follows:

> "The Human Rights Committee,
>
> "Acting under the International Covenant on Civil and Political Rights,
>
> "Referring to the case of Mr. Glen Ashby, a citizen of Trinidad and Tobago, whose communication was submitted to the Committee under the Optional Protocol to the Covenant on 7 July 1994,
>
> "Recalling that the Committee's Special Rapporteur for New Communications requested the Government of Trinidad and Tobago on

13 July 1994, under rule 86 of the Committee's rules of procedure, to stay the execution of Mr. Ashby while his communication was under consideration by the Committee,

"Deeply disturbed by the information that Mr. Ashby was executed at the State prison at Port-of-Spain in the morning of 14 July 1994,

"Recalling that the State party was requested, on 15 and again on 20 July 1994, to provide specific information about the circumstances surrounding the execution of Mr. Ashby,

"Noting that no representative of the State party has been made available to explain to the Committee the events of 14 July 1994,

"Regretting the lack of cooperation on the part of the State party,

"1. Expresses its indignation at the failure of the State party's authorities to comply with the Committee's request for interim measures of protection pursuant to rule 86 of the Committee's rules of procedures; the attitude displayed by the State party has no precedent in the Committee's practice in capital cases under the Optional Protocol and is all the more regrettable since it occurred in the context of consideration of a case involving capital punishment of which it was properly seized and was competent to examine;

"2. Recalls that the State party, upon ratifying the Optional Protocol, undertook to cooperate with the Committee under the procedure, and emphasizes that the State party has failed to comply with its obligations, both under the Optional Protocol and under the Covenant;

"3. Deplores the State party's failure to make available, as requested by the Committee, an authorized representative for the meetings scheduled on 20 and on 26 July 1994 for consideration of the above matter, and notes that what was made available on 20 July 1994 by the State party in the form of an undated 'media release' in no way constituted a reply to the Committee's specific questions formulated on 15 July 1994;

"4. Decides to continue the consideration of Mr. Ashby's complaint under the Optional Protocol;

"5. Strongly urges the State party to ensure, by all means at its disposal, that situations similar to that surrounding the execution of Mr. Ashby do not recur; in particular, the Committee urges compliance with its rule 86 request in the cases of Mr. Lincoln Guerra and Mr. Brian Wallen, as well as other cases of a similar nature of which the Committee is seized;

"6. Requests the Rapporteur of the Committee to include this decision in the annual report of the Committee to the General Assembly".

2. Substantive issues

(a) Right to life (Covenant, art. 6)

412. Although capital punishment is not per se unlawful under the Covenant, article 6, paragraph 2, provides that a "sentence of death may be imposed only for the most serious of crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant". Thus, a nexus is established between the imposition of a sentence of death and observance by State authorities of guarantees under the Covenant. Accordingly, in cases where the Committee found that the State party had violated article 14 of the Covenant, in that the author had been denied a fair trial and appeal, the Committee held that the imposition of the sentence of death also entailed a violation of article 6. In its views in case No. 377/1989 (Anthony Currie v. Jamaica), the Committee observed:

> "The Committee is of the opinion that the imposition of a sentence of death upon conclusion of a trial in which the provisions of the Covenant have not been respected constitutes, if no further appeal against the sentence is possible, a violation of article 6 of the Covenant. As the Committee noted in its general comment 6(16), the provision that a sentence of death may be imposed only in accordance with the law and not contrary to the provisions of the Covenant implies that 'the procedural guarantees therein prescribed must be observed, including the right to a fair hearing by an independent tribunal, the presumption of innocence, the minimum guarantees for the defence, and the right to review of conviction and sentence by a higher tribunal'" (annex IX, sect. L, para. 13.6).

413. Having concluded that the final sentence of death had been imposed without the requirements of article 14 having been fully met, the Committee found that the right protected by article 6 had been violated. Similar conclusions were reached in cases Nos. 330/1988 (Albert Berry v. Jamaica), 333/1988 (Lenford Hamilton v. Jamaica), 353/1988 (Lloyd Grant v. Jamaica), and 445/1991 (Lynden Champagnie et al. v. Jamaica).

414. In communication No.449/1991 (Rafael Mojica v. the Dominican Republic), a father complained about the disappearance of his son, a well-known trade union activist. Prior to his disappearance, the author's son had received death threats from certain military officers. In addressing the alleged violation of article 6, the Committee referred to its general comment 6(16), which states, inter alia, that:

> "States parties should take specific and effective measures to prevent the disappearance of individuals and establish effective facilities and procedures to investigate thoroughly, by an appropriate impartial body, cases of missing and disappeared persons in circumstances that may involve a violation of the right to life".

The Committee then noted that the State party had not denied that Rafael Mojica had in fact disappeared and remained unaccounted for since 5 May 1990, and that his disappearance was caused by individuals belonging to the Government's security forces. In the circumstances, it concluded that the right to life had not been effectively protected by the Dominican Republic (see annex ..., sect. ..., paras. 5.5 and 5.6)

415. In case No. 469/1991 (Charles Chitat Ng v. Canada) the Committee had occasion to affirm its earlier decision on communication No. 470/1991 (Joseph Kindler v. Canada) 33/ with regard to the scope of the requirement under article 6, paragraph 1, to protect the right to life. In Mr. Ng's case, the Committee had to determine whether the requirement under article 6, paragraph 1, prevented the State party from extraditing the complainant to the United States, where he was to stand trial on 19 criminal counts, including 12 murders, and, if convicted, would face the imposition of the death penalty. The Committee observed that, if Mr. Ng's extradition from Canada had exposed him to a real risk of a violation of article 6, paragraph 2, in the United States, this would have entailed a violation by Canada of its obligations under said provision. In the circumstances of the particular case, the Committee found that the existence of such risk had not been shown and consequently found no violation of article 6, paragraph 1, by Canada.

416. The Committee moreover considered that, if the decision to extradite Mr. Ng would have been taken summarily or arbitrarily, this also would have violated the State party's obligations under article 6 of the Covenant. Since Mr. Ng's extradition had been taken after due consideration of the matter by the Canadian authorities, the Committee concluded that article 6 of the Covenant had not been violated.

417. Five members of the Committee appended separate individual dissenting opinions with respect to the Committee's conclusion that the facts before it did not reveal a violation of article 6 of the Covenant.

(b) The right not to be subjected to torture or to cruel, inhuman or degrading treatment (Covenant, art. 7)

418. Article 7 of the Covenant provides that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In case No. 321/1988 (Maurice Thomas v. Jamaica), the author had alleged, and the State party had not denied, that, while detained in the death row section of the prison, he was assaulted by soldiers and warders. As a result, he sustained injuries on his chest, lower back, left hip and lower abdomen, for which he did not receive medical treatment. The Committee concluded that this amounted to degrading treatment within the meaning of article 7.

419. In case No. 440/1990 (El-Megreisi v. the Libyan Arab Jamahiriya), the Committee noted that the alleged victim's brother had provided information which showed that Mr. Mohammed Bashir El-Megreisi was detained incommunicado for more than three years, until April 1992, and again after April 1992. The State party had not disputed these facts. The Committee found that Mr. El-Megreisi, by being subjected to prolonged incommunicado detention in an unknown location, was the victim of torture and cruel and inhuman treatment.

420. In case No. 458/1991 (Albert Womah Mukong v. Cameroon), the author contended that the conditions of his detention in 1988 and 1990 amounted to a violation of article 7, in particular because of insalubrious conditions of detention facilities, overcrowding, deprivation of food and clothing, death threats and incommunicado detention. The State party argued that the burden of proof for these allegations rested with the author and that as far as the conditions of detention were concerned, they were a factor of the underdevelopment of Cameroon. The Committee did not accept the State party's views and stated:

> "... the burden of proof cannot rest alone with the author of a communication, especially considering that the author and the State party do not always have equal access to the evidence and that frequently the State party alone has access to the relevant information" (see annex IX, sect. AA, para. 9.2).

Since Mr. Mukong had provided detailed information about the treatment he was subjected to, the Committee observed that it was incumbent upon the State party to refute the allegations in detail, rather than shifting the burden of proof to the author. As to the conditions of detention in general, the Committee observed that certain minimum standards of detention must be observed regardless of a State party's level of development; guidance as to these minimum standards could be found in the United Nations Standard Minimum Rules for the Treatment of Prisoners. In the circumstances of the case, the Committee found that these minimum standards had not been met and that Mr. Mukong had been subjected to cruel, inhuman and degrading treatment, in violation of article 7 of the Covenant (ibid., paras. 9.1-9.3).

421. Violations of article 7 were also found in cases Nos. 322/1988 (Hugo Rodríguez v. Uruguay), 328/1988 (Roberto Zelaya Blanco v. Nicaragua), 366/1989 (Isidore Kanana Tshiongo a Minanga v. Zaire), 407/1990 (Dwayne Hylton v. Jamaica), 414/1990 (Primo José Essono Mika Miha v. Equatorial Guinea), 428/1990 (François Bozize v. the Central African Republic), and 449/1991 (Rafael Mojica v. the Dominican Republic).

422. In case No. 469/1991 (Charles Chitat Ng v. Canada), the complainant had been extradited from Canada to face trial in the State of California, the United States of America. If convicted, he would face the death penalty and execution by gas asphyxiation. He had provided detailed information to show that execution by gas asphyxiation may cause prolonged suffering and agony. The Committee noted that:

> "... whereas article 6, paragraph 2, allows for the imposition of the death penalty under certain limited circumstances, any method of execution provided for by law must be designed in such a way as to avoid conflict with article 7.
>
> "The Committee is aware that, by definition, every execution of a sentence of death may be considered to constitute cruel and inhuman treatment within the meaning of article 7 of the Covenant; on the other hand, article 6, paragraph 2, permits the imposition of capital punishment for the most serious crimes. None the less, the Committee reaffirms, as it did in its general comment 20(44) on article 7 of the Covenant (CCPR/C/21/Add.3, para. 6) that, when imposing capital punishment, the execution of the sentence '... must be carried out in such a way as to cause the least possible physical and mental suffering'" (see annex IX, sect. CC, paras. 16.1 and 16.2).

On the basis of the information before it, the Committee concluded that execution by gas asphyxiation, should the death penalty be imposed on the author, would not meet the test of "least possible physical and mental suffering" and that it constituted cruel and inhuman treatment, in violation of article 7 of the Covenant. In the Committee's opinion, therefore, Canada, which could reasonably have foreseen that Mr. Ng, if sentenced to death, would be executed in a way that amounted to a violation of article 7, failed to comply with its obligations under the Covenant, by extraditing Mr. Ng without having sought and received assurances.

423. Four members of the Committee appended dissenting opinions with respect to the Committee's conclusion that the facts before it amounted to a violation of article 7 of the Covenant.

(c) Liberty and security of person (Covenant, art. 9)

424. Article 9 of the Covenant guarantees to everyone the right to liberty and security of person. Under paragraph 1, no one shall be subjected to arbitrary arrest or detention. Paragraph 2 prescribes that anyone who is arrested shall be informed, at the time of his arrest, of the reasons for his arrest and shall be promptly informed of any charges against him. Paragraph 3 gives anyone arrested or detained on a criminal charge the right to be brought promptly before a judge. Paragraph 4 entitles any one deprived of his liberty to take proceedings before a court, in order to have the court decide on the lawfulness of his detention. Paragraph 5 gives anyone who has been the victim of unlawful arrest or detention a right to compensation.

425. In case No. 468/1991 (Angel N. Oló Bahamonde v. Equatorial Guinea), the author claimed that he had been subjected to harassment, intimidation and threats by prominent government officials and their respective services. The Committee observed that the right to liberty and security of person might be invoked not only in the context of arrest and detention, and that an interpretation of article 9 that would allow a State party to ignore threats to the personal security of non-detained persons within its jurisdiction would render ineffective the guarantees of the Covenant. In the circumstances of the case, the Committee therefore found a violation of article 9, paragraph 1 (see annex IX, sect. BB, para. 9.2).

426. In case No. 330/1988 (Albert Berry v. Jamaica), the complainant was detained for two and one half months before he was brought before a judge; throughout this period, he had no access to legal representation. The Committee found that this amounted to a violation of paragraphs 3 and 4 of article 9, since Mr. Berry was not, in due time, afforded the opportunity to obtain, on his own initiative, a decision by a court on the lawfulness of his detention.

427. In case No. 449/1991 (Rafael Mojica v. the Dominican Republic), the victim had disappeared after having received death threats from military officers. There was no evidence that he had actually been arrested or detained. The Committee considered that:

> "... [the right to liberty and security of person] may be invoked not only in the context of arrest and detention, and that an interpretation that would allow States parties to tolerate, condone or ignore threats made by persons in authority to the personal liberty and security of non-detained individuals within the State party's jurisdiction would render ineffective the guarantees of the Covenant" (see annex IX, sect. W, para. 5.4).

The Committee concluded that the State party had failed to ensure the victim's right to liberty and security of person, in violation of article 9, paragraph 1 (ibid.).

428. In case No. 458/1991 (Albert W. Mukong v. Cameroon), the author claimed that he had been arbitrarily arrested and detained over a period of several months. The State party rejected the author's claim by indicating that the author was arrested and detained in accordance with the applicable rules of criminal procedure and that the police detention and preliminary inquiries by the examining magistrate were compatible with article 9. The Committee considered:

> "It remains ... to be determined whether other factors may render an otherwise lawful arrest and detention 'arbitrary' within the meaning of article 9. The drafting history of article 9, paragraph 1, confirms that 'arbitrariness' is not to be equated with 'against the law', but must be interpreted more broadly to include elements of inappropriateness, injustice, and lack of predictability and due process of law ... this means that ... remand in custody must further be necessary in all the circumstances, for example to prevent flight, interference with evidence or the recurrence of crime" (see annex IX, sect. AA, para. 9.8).

The Committee concluded that the author's detention was neither reasonable nor necessary in the circumstances of the case and was thus in violation of article 9, paragraph 1, of the Covenant (ibid.).

429. Violations of article 9 were also found in cases Nos. 366/1989 (Isidore Kanana Tshiongo a Minanga v. Zaire), 414/1990 (Primo José Essono Mika Miha v. Equatorial Guinea), 428/1990 (François Bozize v. the Central African Republic) and 440/1990 (El-Megreisi v. the Libyan Arab Jamahiriya).

(d) Treatment during imprisonment (Covenant, art. 10)

430. Article 10, paragraph 1, prescribes that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person. Paragraph 2 of article 10 states that accused persons shall be segregated from convicted persons, save in exceptional circumstances, and that accused juvenile persons shall be separated from adults. The Committee found violations of article 10 in cases Nos. 321/1988 (Maurice Thomas v. Jamaica), 330/1988 (Albert Berry v. Jamaica), 366/1989 (Isidore Kanana Tshiongo a Minanga v. Zaire), 407/1990 (Dwayne Hylton v. Jamaica), 414/1990 (Primo J. Essono Mika Miha v. Equatorial Guinea), 428/1990 (François Bozize v. the Central African Republic) and 440/1990 (El-Megreisi v. the Libyan Arab Jamahiriya), sometimes as a result of a finding of a violation of article 7.

(e) Freedom of movement (Covenant, art. 12)

431. Article 12, paragraph 1, of the Covenant gives everyone lawfully within the territory of a State the right to liberty of movement and freedom to choose his residence. Paragraph 2 of article 12 protects the individual's right to leave any country, including his own. In case No. 468/1991 (Angel N. Oló Bahamonde v. Equatorial Guinea), the complainant claimed, and the State party did not deny, that on two occasions his passport had been confiscated when he tried to leave the country. The Committee found that this constituted a violation of article 12 of the Covenant.

432. In case No. 456/1991 (Ismet Celepli v. Sweden), the author was subject to an expulsion order from Sweden, but the authorities had not implemented the

order for humanitarian reasons. He was allowed to remain in Sweden, subject to certain restrictions to his freedom of movement. The Committee held that, following the expulsion order:

> "... the author was lawfully in the territory of Sweden, for purposes of article 12, paragraph 1, of the Covenant, only under the restrictions placed upon him by the State party. Moreover, bearing in mind that the State party has invoked reasons of national security to justify the restrictions ... to which the author was subjected were compatible with ... article 12, paragraph 3, of the Covenant. In this connection, the Committee also notes that the State party *motu proprio* reviewed said restrictions and ultimately lifted them" (see annex IX, sect. Z, para. 9.2).

433. In case No. 492/1992 (Lauri Peltonen v. Finland), the author, a Finnish citizen born in 1968, claimed that his right under article 12, paragraph 2, to leave any country, had been violated. In his situation, the Finnish Passport Act provided for the possibility of denying a passport to persons aged 17 to 30 who had not performed their military service. The author, a resident of Sweden since 1986, had failed to respond to repeated call-ups for military service, and was accordingly denied a passport by the Finnish Embassy in Sweden. The Committee noted that:

> "The *travaux préparatoires* to article 12, paragraph 3, of the Covenant reveal that it was agreed upon that the right to leave any country could not be claimed, *inter alia*, in order to avoid such obligations as national service. Thus, States parties to the Covenant whose laws institute a system of mandatory national service may impose reasonable restrictions on the rights of individuals who have not yet performed such service to leave the country until service is completed, provided that all the conditions laid down in article 12, paragraph 3, are complied with" (see annex IX, sect. FF, para. 8.3).

(f) Guarantees of a fair trial (Covenant, art. 14)

434. Article 14, paragraph 1, provides that all persons shall be equal before the courts and gives everyone the right to a fair and public hearing in the determination of criminal charges against him. In case No. 377/1989 (Anthony Currie v. Jamaica), the complainant, who had been sentenced to death for murder, had claimed that his trial was unfair and that he was prevented from seeking constitutional redress for the violation of his rights because the high legal costs involved were well beyond his means and no legal aid was provided for the filing of constitutional motions. The Committee noted that the Covenant does not contain an express obligation for a State to provide legal aid in all cases, but only, in accordance with article 14, paragraph 3(d), in the determination of a criminal charge where the interests of justice so require. It continued:

> "The Committee is aware that the role of the Constitutional Court is not to determine the criminal charge itself, but to ensure that applicants receive a fair hearing in all cases, whether criminal or civil. The State party has an obligation, under article 2, paragraph 3, of the Covenant, to make the remedies in the Constitutional Court addressing violations of fundamental rights available and effective.

> "The determination of rights in proceedings in the Constitutional Court must conform with the requirements of a fair hearing in accordance with article 14, paragraph 1. In this particular case, the Constitutional Court would be called on to determine whether the author's conviction in a criminal trial has violated the guarantees of a fair trial. In such cases, the application of the requirement of a fair hearing in the Constitutional Court should be consistent with the principles in paragraph 3(d) of article 14. It follows that where a convicted person seeking constitutional review of irregularities in a criminal trial has not sufficient means to meet the costs of legal assistance in order to pursue his constitutional remedy and where the interests of justice so require, legal assistance should be provided by the State" (see annex IX, sect. L, paras. 13.3 and 13.4).

The Committee concluded that there had been a violation of article 14, paragraph 1, *juncto* article 2, paragraph 3.

435. In case No. 468/1991 (Angel N. Oló Bahamonde v. Equatorial Guinea), the author's attempts to obtain judicial redress before the courts had remained unsuccessful. The Committee observed that:

> "... the notion of equality before the courts and tribunals encompasses the very access to the courts and that a situation in which an individual's attempts to seize the competent jurisdictions of his/her grievances are systematically frustrated runs counter to the guarantees of article 14, paragraph 1. In this context, the Committee has also noted the author's contention that the State party's President controls the judiciary in Equatorial Guinea. The Committee considers that a situation where the functions and competences of the judiciary and the executive are not clearly distinguishable or where the latter is able to control or direct the former is incompatible with the notion of an independent and impartial tribunal within the meaning of article 14, paragraph 1, of the Covenant" (see annex IX, sect. BB, para. 9.4).

436. A violation of article 14, paragraph 1, was also found in case No. 353/1988 (Lloyd Grant v. Jamaica).

437. In case No. 441/1990 (Robert Casanovas v. France), the complainant had been dismissed by the municipal administration of Nancy from his post in the municipal fire brigade. Upon court proceedings that lasted for over 32 months, he was reinstated in his post. The author claimed that the length of the proceedings before the administrative tribunal amounted to a violation of article 14, paragraph 1. The Committee considered that the right to a fair hearing entailed a number of requirements, including the condition that the procedure before the courts must be conducted expeditiously. In the circumstances of the case, however, bearing in mind that the court did consider whether the author's case should have priority over other cases, the Committee found that there had been no violation of article 14, paragraph 1 (see annex IX, sect. V, para. 7.4).

438. Pursuant to article 14, paragraph 3(b), accused persons must have adequate time and facilities to prepare their defence. Article 14, paragraph 3(d), gives every accused person the right to be tried in his presence and to defend himself in person or through legal assistance of his own choosing. The provision also provides the right to have legal assistance assigned to the accused, in any case where the interests of justice so require, and without payment by the accused in

any such case if he does not have sufficient means to pay for it. While article 14, paragraph 3(d), does not entitle the accused to choose counsel provided to him free of charge, measures must be taken to ensure that counsel, once assigned, provides effective representation in the interest of justice. This includes consulting with and informing the accused if he intends to withdraw an appeal or to argue before the appellate instance that the appeal has no merit. In case No. 353/1988 (Lloyd Grant v. Jamaica), the Committee held that while it was not for the Committee to question counsel's professional judgement that there was no merit in the appeal, counsel should nevertheless have informed his client of his intention not to raise any grounds of appeal, so that the latter could have considered any other remaining options open to him. In the circumstances, the Committee found a violation by the State party of the author's rights under article 14, paragraphs 3(b) and (d) (see annex IX, sect. H, para. 8.6).

439. In case No. 451/1991 (Barry S. Harward v. Norway) the author, a British citizen accused of certain criminal offences in Norway, claimed that he did not have adequate facilities for the preparation of his defence because not all court documents had been made available in English to himself and to his counsel. The Committee was called upon to determine whether the failure of the State party to provide written translations of all the documents used in the preparation of the trial violated the author's rights under article 14, paragraphs 1 and 3(b). It observed that:

> "... it is important for the guarantee of a fair trial that the defence has the opportunity to familiarize itself with the documentary evidence against an accused. However, this does not entail that an accused ... has the right to be furnished with translations of all relevant documents in a criminal investigation, provided that the relevant documents are made available to his counsel. The Committee notes that Mr. Harward was represented by a Norwegian lawyer of his choice, who had access to the entire file, and that the lawyer had the assistance of an interpreter in his meetings with Mr. Harward. Defence counsel therefore had the opportunity to familiarize himself with the file and, if he thought it necessary, to read out Norwegian documents to Mr. Harward during their meetings, so that Mr. Harward could take note of their contents through interpretation. If counsel would have deemed the time available to prepare the defence ... inadequate ..., he could have requested a postponement of the trial, which he did not do" (see annex IX, sect. X, para. 9.5).

In the circumstances, the Committee concluded that the author's right to have adequate facilities for the preparation of his defence had not been violated (ibid.).

440. Article 14, paragraph 3(c), gives every accused person the right to be tried without undue delay. In case No. 428/1990 (François Bozize v. the Central African Republic), the Committee found a violation of this provision, as Mr. Bozize, a political opponent of the Government, still had not been tried at the first instance after four years of detention.

441. Pursuant to article 14, paragraph 3(e), an accused person shall have the right to examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses brought against him. In case No. 353/1988 (Lloyd Grant v. Jamaica), the Committee found a violation of this provision. The witness called on behalf of the defence was said to have been unable to attend the hearing,

because she lacked the means to travel to the court. The Committee, bearing in mind that this was a case involving the death penalty, found that, in the circumstances, the judge should have adjourned the trial and issued a subpoena to secure the attendance of the witness, and the police should have made transportation available to her (see annex IX, sect. H, para. 8.5).

442. Article 14, paragraph 3(g), gives every accused a right not to be compelled to testify against himself or to confess guilt. In case No. 330/1988 (Albert Berry v. Jamaica), the complainant, who had been sentenced to death, claimed that the investigating officer had threatened to shoot him and forced him to sign a prepared statement. The State party had not contested this claim. In the circumstances, the Committee found a violation of article 14, paragraph 3(g), in conjunction with article 7 of the Covenant.

443. Article 14, paragraph 5, gives anyone convicted of a crime the right to have his conviction and sentence reviewed by a higher tribunal according to law. The right of appeal can be effectively exercised only if there is a written judgement of a lower tribunal. On several occasions the Committee has observed that article 14, paragraph 5, has to be read together with article 14, paragraph 3(c), so that the right to review of conviction and sentence must be made available without undue delay. In case No. 377/1989 (Anthony Currie v. Jamaica), the Committee referred to its prior jurisprudence and reaffirmed that:

> "... under article 14, paragraph 5, a convicted person is entitled to have, within reasonable time, access to written judgements, duly reasoned, for all instances of appeal in order to enjoy the effective exercise of the right to have conviction and sentence reviewed by a higher tribunal according to law" (see annex __, sect. __, para. 13.5).

The Committee found that the failure of the Court of Appeal to issue a written judgement, 13 years after the dismissal of the appeal, effectively barred the complainant from petitioning the Judicial Committee of the Privy Council and constituted a violation of article 14, paragraphs 3(c) and 5.

444. Similar violations were found in cases Nos. 333/1988 (Lenford Hamilton v. Jamaica), 355/1989 (George Winston Reid v. Jamaica) and 445/1991 (Lynden Champagnie *et al*. v. Jamaica).

(g) Right to privacy (Covenant, art. 17)

445. Under article 17, paragraph 1, of the Covenant no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation. In case No. 488/1992 (Nicholas Toonen v. Australia) the author, an activist for the promotion of the rights of homosexuals, complained that the criminalization under the Tasmanian Criminal Code of homosexual activity between consenting adult men violated his rights under articles 17 and 26 of the Covenant. The Committee observed that it was undisputed that adult consensual sexual activity in private is covered by the concept of "privacy" in article 17. The continued existence of the Tasmanian law prohibiting homosexual activity was found to interfere directly with the complainant's privacy. The Committee recalled its general comment 16(32) on article 17 and considered that interference provided for by law should be in accordance with the provisions, aims and objectives of the Covenant and should be reasonable in all the circumstances. The Committee rejected Tasmania's argument, which had been transmitted by the State party, that for the purposes of article 17, moral issues are exclusively a matter for

domestic concern. It concluded that the interference with Mr. Toonen's privacy, although lawful, was arbitrary and therefore constituted a violation of article 17. The Committee did not consider it necessary to consider the complainant's claim under article 26 of the Covenant (see annex IX, sect. EE, paras. 8.2 to 11).

(h) Freedom of expression (Covenant, art. 19)

446. Under article 19, paragraph 1, everyone has the right to hold opinions without interference; paragraph 2 gives everyone the freedom of expression. The rights provided for in article 19, paragraph 2, may be subject to certain restrictions, but only as are provided by law and are necessary for the protection of the rights or reputations of others or for the protection of national security, public order (ordre public), or public health or morals.

447. The complainant in case No. 412/1990 (Auli Kivenmaa v. Finland) had, together with a few other individuals, distributed leaflets and deployed a banner criticizing the human rights record of a visiting Head of State, across from the Presidential Palace. The police immediately took the banner down and asked who was responsible; Ms. Kivenmaa identified herself and was charged with violating the Act on Public Meetings by organizing a "public meeting" without prior notification. The complainant argued that this law was not applicable in the circumstances. The Committee found that issues of freedom of expression continued to be applicable in the circumstances, noting that the State party had invoked no law allowing the freedom of expression to be restricted, nor had it established how the restriction of Ms. Kivenmaa's rights was necessary to safeguard the rights within the meaning of article 19, paragraphs 3(a) and (b) (see annex IX, sect. N, para. 9.3).

448. In case No. 455/1991 (Allan Singer v. Canada) the author, who operated a stationery and printing business in Montreal, claimed that Bill 101 passed by the Québec legislature, as amended by Bill 178, which prohibited him from outdoor advertising in any language other than French, violated his rights under the Covenant. In line with its views on communications Nos. 359/1989 (J. Ballantyne and E. Davidson v. Canada) and (G. McIntyre v. Canada), 33/ the Committee considered that a State party may choose one or more official languages, but that it may not exclude, outside the sphere of public life, the freedom to express oneself in a language of one's choice. Accordingly, it concluded that Mr. Singer's rights under article 19 of the Covenant had been violated (see annex IX, sect. Y, para. 12.2).

449. In case No. 458/1991 (Albert W. Mukong v. Cameroon), the author claimed that the State party had imposed unreasonable restrictions on his freedom of expression by, inter alia, banning one of his publications and detaining him. The Committee observed as follows:

> "Any restriction of the freedom of expression pursuant to paragraph 3 of article 19 must cumulatively meet the following conditions: it must be provided for by law, it must address one of the aims enumerated in paragraphs 3(a) and (b) of article 19 and it must be necessary to achieve the legitimate purpose. The State party has indirectly justified its actions on grounds of national security ... by arguing that the author's right to freedom of expression was exercised without regard to the country's political context and continued struggle for unity. While the State party has indicated that the restrictions on the author's freedom of expression were provided for by law, it must still be determined whether

> the measures taken against the author were necessary for the safeguard of national security and/or public order. The Committee considers that it was not necessary to safeguard an alleged vulnerable state of national unity by subjecting the author to arrest, continued detention and treatment in violation of article 7. It further considers that the legitimate objective of safeguarding and indeed strengthening national unity under difficult circumstances cannot be achieved by attempting to muzzle advocacy of multi-party democracy, democratic tenets and human rights; in this regard, the question of deciding which measures might meet the 'necessity' test in such situations does not arise" (see annex IX, sect. AA, para. 9.7).

In the circumstances of the case, the Committee found a violation of the author's right under article 19 (ibid.).

450. A violation of article 19 was also found in case No. 414/1990 (Primo J. Essono Mika Miha v. Equatorial Guinea).

(i) The right to freedom of assembly (Covenant, art. 21)

451. Article 21 recognizes the right of peaceful assembly. Restrictions placed on the exercise of this right must be in conformity with the law and necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of health or morals or the protection of the rights and freedoms of others. In case No. 412/1990 (Auli Kivenmaa v. Finland), the Committee found that a requirement to notify the police of an intended demonstration in a public place six hours before its commencement may be compatible with the permitted limitations laid down in article 21 of the Covenant. In the circumstances of the particular case, however, where the demonstration was part of a larger gathering on the occasion of a visit of a foreign Head of State, the Committee found the imposition of such a restriction not permissible (annex IX, sect. N, para. 9.2). One member of the Committee appended an individual opinion opposing the finding of a violation of article 21.

(j) Non-discrimination (Covenant, art. 26)

452. Article 26 of the Covenant guarantees equality before the law and equal protection of the law without any discrimination. In its jurisprudence, the Committee has consistently expressed the view that this article does not make all differences in treatment discriminatory; a differentiation based on reasonable and objective criteria does not amount to prohibited discrimination within the meaning of that article.

453. In case No. 418/1990 (Cavalcanti Araujo-Jongen v. the Netherlands), the complainant had, in February 1983, been granted unemployment benefits for a period of six months. At the time, the law only granted extended benefits to married women if they were breadwinners; the breadwinner criterion did not apply to married men. The complainant found new employment as of April 1984. In April 1985, the State party abrogated the breadwinner criterion for married women, with restrictive retroactive effect. On 11 December 1986, the author unsuccessfully applied for retroactive unemployment benefits. In June 1991, the State party amended the law further and abolished the restrictions on the retroactivity. As a result, married women who had been denied benefits in the past, can now claim them retroactively, provided that they satisfy the other requirements of the law. One of these requirements is that the applicant be unemployed on the date of application. The Committee observed that:

> "... even if the law in force in 1983 was not consistent with the requirements of article 26 of the Covenant, that deficiency was corrected upon the retroactive amendment of the law on 6 June 1991. The Committee notes that the author argues that the amended law still indirectly discriminates against her because it requires applicants to be unemployed at the time of application and that this requirement effectively bars her from retroactive access to benefits. The Committee finds that the requirement of being unemployed at the time of application for benefits is, as such, reasonable and objective, in view of the purposes of the legislation in question, namely, to provide assistance to persons who are unemployed. The Committee therefore concludes that the facts before it do not reveal a violation of article 26 of the Covenant" (see annex IX, sect. Q, para. 7.4).

454. The application of Dutch social security legislation was also at issue in communications Nos. 425/1990 (A. M. M. Doesburg Lannooij Neefs v. the Netherlands) and 484/1991 (H. J. Pepels v. the Netherlands). The Committee found no violation of article 26 in either case.

455. In case No. 468/1991 (Angel N. Oló Bahamonde v. Equatorial Guinea), the Committee found that the complainant had been discriminated against, in violation of article 26, because of his political opinions and his open criticism of, and opposition to, the Government and the ruling political party.

(k) Protection of the family (Covenant, art. 23)

456. Paragraph 1 of article 23 provides that the family is entitled to protection by society and the State, and paragraph 4 provides that equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution should be ensured and that, in the case of dissolution, provision shall be made for the necessary protection of any children.

457. In case No. 417/1990 (Manuel Balaguer Santacana v. Spain), the author invoked a violation of article 23, since he was denied access to his daughter, who had been born out of wedlock. The Committee noted that:

> "... the term 'family' must be understood broadly; it reaffirms that the concept refers not solely to the family home during marriage or cohabitation, but also to the relations in general between parents and child. Some minimal requirements for the existence of a family are, however, necessary, such as life together, economic ties, a regular and intense relationship, etc." (see annex IX, sect. P, para. 10.2).

In the specific circumstances of the case, the Committee concluded that there had been no violation of article 23, as the author himself had failed to observe the modalities of his right of access.

F. Remedies called for under the Committee's views

458. The Committee's decisions on the merits are referred to as "views" in article 5, paragraph 4, of the Optional Protocol. After the Committee has made a finding of a violation of a provision of the Covenant, it proceeds to ask the State party to take appropriate steps to remedy the violation. For instance, in the period covered by the present report, the Committee, in a case concerning arbitrary detention and torture, found as follows:

> "The Committee is of the view that Mr. Mohammed Bashir El-Megreisi is entitled, under article 2, paragraph 3 (a), of the Covenant, to an effective remedy. It urges the State party to take effective measures (a) to secure his immediate release; (b) to compensate Mr. Mohammed El-Megreisi for the torture and cruel and inhuman treatment to which he has been subjected and (c) to ensure that similar violations do not occur in the future" (see annex IX, sect. T, para. 7).

The Committee further stated that it would wish to receive information, within 90 days, on any relevant measures taken by the State party in respect of the Committee's views (communication No. 440/1990, El-Megreisi v. the Libyan Arab Jamahiriya) (ibid., para. 8).

G. Follow-up activities

459. From its seventh session, in 1979, to its fifty-first session, in July 1994, the Human Rights Committee has adopted 193 views on communications received and considered under the Optional Protocol. The Committee has found violations of the Covenant in 142 of them. During the years, however, the Committee was informed by States parties in only a relatively limited number of cases of any measures taken by them to give effect to the views adopted. Because of the lack of knowledge about State compliance with its decisions, the Committee sought to devise a mechanism that would enable it to evaluate State compliance with its views.

460. At its thirty-ninth session (July 1990), following a thorough debate on the Committee's competence to engage in follow-up activities, 34/ the Committee set up a procedure which allows it to monitor the follow-up to its views adopted pursuant to article 5, paragraph 4, of the Optional Protocol. The Committee also established the mandate of a Special Rapporteur for follow-up on views. His mandate is spelled out in annex XI of the report of the Committee to the General Assembly at its forty-fifth session. 35/ From the thirty-ninth session (July 1990) to the forty-seventh session (March/April 1993), the late Mr. János Fodor acted as Special Rapporteur for follow-up on views. At the forty-seventh session, in March 1993, Mr. Andreas Mavrommatis was appointed Special Rapporteur for follow-up on views. During its fifty-first session, the Committee adopted a new rule of procedure, rule 95, which spells out the mandate of the Special Rapporteur for follow-up on views (see annex VI to the present report).

461. In accordance with his mandate, the Special Rapporteur has been requesting follow-up information from States parties since the autumn of 1990. Follow-up information has been requested in respect of all views with a finding of a violation of the Covenant. At the beginning of the Committee's fifty-first session, follow-up information had been received in respect of 65 views; no information had been received in respect of 55 views. It is to be noted that in many instances, the secretariat has also received information from authors to the effect that the Committee's views have not been implemented.

462. While it is obviously difficult to categorize follow-up replies, it appears that a little over one fourth of the replies received thus far are fully satisfactory, in that they display a willingness on the part of the State party concerned to implement the Committee's views or to offer the applicant a remedy. A little over one third of the replies cannot be considered satisfactory, as they either do not address the Committee's recommendations at all, merely relate

to one aspect thereof or indicate that the State party is not willing to grant the remedy recommended by the Committee. A number of replies have explicitly challenged the Committee's findings, either on factual or on legal grounds. The remaining replies are either couched in general terms, promise an investigation of the matter considered by the Committee or reiterate the State party's position during the proceedings.

463. While the overall results of the first four years of experience with the follow-up procedure are encouraging, they cannot be termed fully satisfactory. Some States parties have indeed replied that they are implementing the Committee's recommendations, for example, by releasing from detention victims of human rights violations, by granting them compensation for the violations suffered, by amending legislation found incompatible with the provisions of the Covenant or by offering the complainants different remedies. In a number of cases, States parties have indicated that compensatory payments to victims were made ex gratia, 36/ notably where the domestic legal system does not provide for compensation in a different manner. The Committee is aware that the absence of specific enabling legislation is a key factor that often stands in the way of monetary compensation to victims of violations of the Covenant, and commends those States which have compensated victims of violation of the Covenant; it encourages States parties to consider the adoption of such specific enabling legislation.

464. The Committee has carefully examined and analysed the information gathered through the follow-up procedure. Between the thirty-ninth and fiftieth sessions, it considered follow-up information on a confidential basis. Periodic reports on follow-up activities were not made public, and debates on follow-up matters took place in closed meetings.

465. At the same time, however, the Committee recognized that publicity for follow-up activities would be an appropriate means for making the procedure more effective. Thus, publicity for follow-up activities would not only be in the interest of victims of violations of provisions of the Covenant, but could also serve to enhance the authority of the Committee's views and provide an incentive for States parties to implement them.

466. Thus, during its forty-seventh session, in March-April 1993, the Committee agreed in principle that information on follow-up activities should be made public. 37/ Discussions on this issue continued during the forty-eighth and forty-ninth sessions. During its fiftieth session, in March 1994, the Committee formally adopted a number of decisions concerning the effectiveness and publicity of the follow-up procedure. Those decisions were as follows:

(a) Every form of publicity will be given to follow-up activities;

(b) Future annual reports will include a separate and highly visible section on follow-up activities under the Optional Protocol. This should clearly convey to the public which States parties have cooperated and which States parties (hitherto) have failed to cooperate with the Special Rapporteur for the follow-up on views. A list of States parties which have and which have not provided follow-up information or cooperated with the Special Rapporteur is reproduced in annex VII to the present report. Reminders will be sent to all those States which have failed to provide follow-up information;

(c) Press communiqués will be issued once a year after the Committee's summer session, highlighting both positive and negative developments concerning the Committee's and the Special Rapporteur's follow-up activities;

(d) The Committee will welcome any information which non-governmental organizations might wish to submit as to what measures States parties have taken, or failed to take, in respect of the implementation of the Committee's views;

(e) The Special Rapporteur and members of the Committee should, as appropriate, establish contacts with particular Governments and Permanent Missions to the United Nations to further inquire about the implementation of the Committee's views;

(f) The Committee should draw the attention of States parties, at their biannual meetings, to the failure of certain States to implement the Committee's views and to cooperate with the Special Rapporteur in providing information on the implementation of views.

467. The Committee notes with concern that a number of countries have either not provided any follow-up information or have not replied to requests from the Special Rapporteur for follow-up on views. Those States which have not replied to at least four requests are, in alphabetical order, Jamaica, Madagascar, Suriname and Zaire.

468. The Committee decided to anchor firmly the publicity of the follow-up procedure in its rules of procedure, by adopting a new rule (rule 99) to this effect (see annex VI). It also decided to keep the functioning of the follow-up procedure under constant review.

Notes

1/ Official Records of the General Assembly, Forty-eighth Session, Supplement No. 1 (A/48/1).

2/ Ibid., Thirty-ninth Session, Supplement No. 40 (A/39/40), paras. 58-65.

3/ Ibid., Forty-fourth Session, Supplement No. 40 (A/44/40), annex VII.

4/ Ibid., Forty-seventh Session, Supplement No. 40 (A/47/40), para. 13.

5/ Ibid., Forty-fourth Session, Supplement No. 40 (A/44/40), paras. 18 and 45.

6/ CCPR/C/3/Rev.3.

7/ Decision taken at the Committee's 1269th meeting (forty-ninth session), on 21 October 1994.

8/ See Official Records of the General Assembly, Forty-sixth Session, Supplement No. 40 (A/46/40), para. 40 and annex VI.

9/ Ibid., Forty-seventh Session, Supplement No. 40 (A/47/40), para. 37 and annex VII.

10/ Ibid., para. 41 and annex VII.

11/ Ibid., Forty-eighth Session, Supplement No. 40 (A/48/40), para. 36 and annex VII.

12/ Ibid., Forty-eighth Session, Supplement No. 40 (A/48/40), para. 19 and annex IX.

13/ Ibid., para. 332.

14/ Ibid., para. 41.

15/ See inter alia, document CCPR/SP/37.

16/ Official Records of the General Assembly, Thirty-second Session, Supplement No. 44 (A/32/44) and corrigendum, annex IV.

17/ Ibid., Thirty-sixth Session, Supplement No. 40 (A/36/40), annex V.

18/ Ibid., annex VI.

19/ Ibid., Forty-fifth Session, Supplement No. 40 (A/45/40), vol. I, para. 12.

20/ Ibid., Forty-sixth Session, Supplement No. 40 (A/46/40), paras. 21 and 32 and annex VII.

21/ At its 1281st meeting (forty-ninth session), held on 29 October 1993.

22/ At its 1282nd meeting (forty-ninth session), held on 29 October 1993.

23/ At its 1290th meeting (forty-ninth session), held on 4 November 1993.

24/ At its 1289th meeting (forty-ninth session), held on 4 November 1993.

25/ At its 1315th meeting (fiftieth session), held on 6 April 1994.

26/ At its 1316th meeting (fiftieth session), held on 7 April 1994.

27/ At its 1318th meeting (fiftieth session), held on 8 April 1994.

28/ At the 1354th meeting (fifty-first session), held on 27 July 1994.

29/ At the 1353rd meeting (fifty-first session), held on 27 July 1994.

30/ At the 1355th meeting (fifty-first session), held on 28 July 1994.

31/ The rules on confidentiality of the procedure were adopted during the Committee's fiftieth session and are reproduced in annex VI to the present report.

32/ Contrary to earlier practice, the inadmissibility decisions adopted as of the fifty-first session of the Committee reveal the identity of the author(s).

33/ Official Records of the General Assembly, Forty-eighth Session, Supplement No. 40 (A/48/40), annex XII, sect. V.

34/ See the Committee's contribution to the World Conference on Human Rights, A/CONF.157/TBB/3 (9 June 1993), paras. 5 and 6.

35/ See Official Records of the General Assembly, Forty-fifth Session, Supplement No. 40 (A/45/40), vol. II, annex XI.

36/ See, for example, the follow-up reply of the Government of the Netherlands to the Committee's views on case No. 305/1988 (van Alphen v. The Netherlands), Official Records of the General Assembly, Forty-sixth Session, Supplement No. 40 (A/46/40), paras. 707-708.

37/ See CCPR/C/SR.1227/Add.1.

ANNEX I

States parties to the International Covenant on Civil and Political Rights and to the Optional Protocols and States which have made the declaration under article 41 of the Covenant as at 29 July 1994

A. States parties to the International Covenant on Civil and Political Rights (127)

State party	Date of receipt of the instrument of ratification or accession (a) or succession (d)	Date of entry into force
Afghanistan	24 January 1983 (a)	24 April 1983
Albania	4 October 1991 (a)	4 January 1992
Algeria	12 September 1989	12 December 1989
Angola	10 January 1992 (a)	10 April 1992
Argentina	8 August 1986	8 November 1986
Armenia	23 June 1993	23 September 1993
Australia	13 August 1980	13 November 1980
Austria	10 September 1978	10 December 1978
Azerbaijan	13 August 1992 (a)	13 November 1992
Barbados	5 January 1973 (a)	23 March 1976
Belarus	12 November 1973	23 March 1976
Belgium	21 April 1983	21 July 1983
Benin	12 March 1992 (a)	12 June 1992
Bolivia	12 August 1982 (a)	12 November 1982
Bosnia and Herzegovina	1 September 1993 (d)	6 March 1992
Brazil	24 January 1992 (a)	24 April 1992
Bulgaria	21 September 1970	23 March 1976
Burundi	9 May 1990 (a)	9 August 1990
Cambodia	26 May 1992 (a)	26 August 1992
Cameroon	27 June 1984 (a)	27 September 1984
Canada	19 May 1976 (a)	19 August 1976
Cape Verde	6 August 1993 (a)	6 November 1993
Central African Republic	8 May 1981 (a)	8 August 1981
Chile	10 February 1972	23 March 1976
Colombia	29 October 1969	23 March 1976
Congo	5 October 1983 (a)	5 January 1984
Costa Rica	29 November 1968	23 March 1976
Côte d'Ivoire	26 March 1992 (a)	26 June 1992
Croatia	12 October 1992 (d)	8 October 1991
Cyprus	2 April 1969	23 March 1976

State party	Date of receipt of the instrument of ratification or accession (a) or succession (d)	Date of entry into force
Czech Republic	22 February 1993 (d)	1 January 1993
Democratic People's Republic of Korea	14 September 1981 (a)	14 December 1981
Denmark	6 January 1972	23 March 1976
Dominica	17 June 1993 (a)	17 September 1993
Dominican Republic	4 January 1978 (a)	4 April 1978
Ecuador	6 March 1969	23 March 1976
Egypt	14 January 1982	14 April 1982
El Salvador	30 November 1979	29 February 1980
Equatorial Guinea	25 September 1987 (a)	25 December 1987
Estonia	21 October 1991 (a)	21 January 1992
Ethiopia	11 June 1993 (a)	11 September 1993
Finland	19 August 1975	23 March 1976
France	4 November 1980 (a)	4 February 1981
Gabon	21 January 1983 (a)	21 April 1983
Gambia	22 March 1979 (a)	22 June 1979
Georgia	3 May 1994 (a)	3 August 1994
Germany	17 December 1973	23 March 1976
Grenada	6 September 1991 (a)	6 December 1991
Guatemala	6 May 1992 (a)	5 August 1992
Guinea	24 January 1978	24 April 1978
Guyana	15 February 1977	15 May 1977
Haiti	6 February 1991 (a)	6 May 1991
Hungary	17 January 1974	23 March 1976
Iceland	22 August 1979	22 November 1979
India	10 April 1979 (a)	10 July 1979
Iran, Islamic Republic of	24 June 1975	23 March 1976
Iraq	25 January 1971	23 March 1976
Ireland	8 December 1989	8 March 1990
Israel	3 October 1991 (a)	3 January 1992
Italy	15 September 1978	15 December 1978
Jamaica	3 October 1975	23 March 1976
Japan	21 June 1979	21 September 1979
Jordan	28 May 1975	23 March 1976
Kenya	1 May 1972 (a)	23 March 1976
Latvia	14 April 1992 (a)	14 July 1992
Lebanon	3 November 1972 (a)	23 March 1976
Lesotho	9 September 1992 (a)	9 December 1992
Libyan Arab Jamahiriya	15 May 1970 (a)	23 March 1976
Lithuania	20 November 1991 (a)	20 February 1992
Luxembourg	18 August 1983	18 November 1983

State party	Date of receipt of the instrument of ratification or accession (a) or succession (d)	Date of entry into force
Madagascar	21 June 1971	23 March 1976
Malawi	22 December 1993 (a)	22 March 1994
Mali	16 July 1974 (a)	23 March 1976
Malta	13 September 1990 (a)	13 December 1990
Mauritius	12 December 1973 (a)	23 March 1976
Mexico	23 March 1981 (a)	23 June 1981
Mongolia	18 November 1974	23 March 1976
Morocco	3 May 1979	3 August 1979
Mozambique	21 July 1993 (a)	21 October 1993
Nepal	14 May 1991	14 August 1991
Netherlands	11 December 1978	11 March 1979
New Zealand	28 December 1978	28 March 1979
Nicaragua	12 March 1980 (a)	12 June 1980
Niger	7 March 1986 (a)	7 June 1986
Nigeria	29 July 1993 (a)	29 October 1993
Norway	13 September 1972	23 March 1976
Panama	8 March 1977	8 June 1977
Paraguay	10 June 1992 (a)	10 September 1992
Peru	28 April 1978	28 July 1978
Philippines	23 October 1986	23 January 1987
Poland	18 March 1977	18 June 1977
Portugal	15 June 1978	15 September 1978
Republic of Korea	10 April 1990 (a)	10 July 1990
Republic of Moldova	26 January 1993 (a)	26 April 1993
Romania	9 December 1974	23 March 1976
Russian Federation	16 October 1973	23 March 1976
Rwanda	16 April 1975 (a)	23 March 1976
Saint Vincent and the Grenadines	9 November 1981 (a)	9 February 1982
San Marino	18 October 1985 (a)	18 January 1986
Senegal	13 February 1978	13 May 1978
Seychelles	5 May 1992 (a)	5 August 1992
Slovakia	28 May 1993 (d)	1 January 1993
Slovenia	6 July 1992 (d)	25 June 1991
Somalia	24 January 1990 (a)	24 April 1990
Spain	27 April 1977	27 July 1977
Sri Lanka	11 June 1980 (a)	11 September 1980
Sudan	18 March 1986 (a)	18 June 1986
Suriname	28 December 1976 (a)	28 March 1977
Sweden	6 December 1971	23 March 1976
Switzerland	18 June 1992 (a)	18 September 1992

State party	Date of receipt of the instrument of ratification or accession (a) or succession (d)	Date of entry into force
Syrian Arab Republic	21 April 1969 (a)	23 March 1976
The former Yugoslav Republic of Macedonia	18 January 1994 (d)	17 September 1991
Togo	24 May 1984 (a)	24 August 1984
Trinidad and Tobago	21 December 1978 (a)	21 March 1979
Tunisia	18 March 1969	23 March 1976
Ukraine	12 November 1973	23 March 1976
United Kingdom of Great Britain and Northern Ireland	20 May 1976	20 August 1976
United Republic of Tanzania	11 June 1976 (a)	11 September 1976
United States of America	8 June 1992	8 September 1992
Uruguay	1 April 1970	23 March 1976
Venezuela	10 May 1978	10 August 1978
Viet Nam	24 September 1982 (a)	24 December 1982
Yemen	9 February 1987 (a)	9 May 1987
Yugoslavia	2 June 1971	23 March 1976
Zaire	1 November 1976 (a)	1 February 1977
Zambia	10 April 1984 (a)	10 July 1984
Zimbabwe	13 May 1991 (a)	13 August 1991

B. States parties to the First Optional Protocol (77)

Algeria	12 September 1989 (a)	12 December 1990
Angola	10 January 1992 (a)	10 April 1992
Argentina	8 August 1986 (a)	8 November 1986
Armenia	23 June 1993	23 September 1993
Australia	25 September 1991 (a)	25 December 1991
Austria	10 December 1987	10 March 1988
Barbados	5 January 1973 (a)	23 March 1976
Belarus	30 September 1992 (a)	30 December 1992
Belgium	17 May 1994 (a)	17 August 1994
Benin	12 March 1992 (a)	12 June 1992
Bolivia	12 August 1982 (a)	12 November 1982
Bulgaria	26 March 1992 (a)	26 June 1992
Cameroon	27 June 1984 (a)	27 September 1984
Canada	19 May 1976 (a)	19 August 1976
Central African Republic	8 May 1981 (a)	8 August 1981
Chile	28 May 1992 (a)	28 August 1992
Colombia	29 October 1969	23 March 1976
Congo	5 October 1983 (a)	5 January 1984
Costa Rica	29 November 1968	23 March 1976
Cyprus	15 April 1992	15 July 1992

State party	Date of receipt of the instrument of ratification or accession (a) or succession (d)	Date of entry into force
Czech Republic	22 February 1993 (d)	1 January 1993
Denmark	6 January 1972	23 March 1976
Dominican Republic	4 January 1978 (a)	4 April 1978
Ecuador	6 March 1969	23 March 1976
Equatorial Guinea	25 September 1987 (a)	25 December 1987
Estonia	21 October 1991 (a)	21 January 1992
Finland	19 August 1975	23 March 1976
France	17 February 1984 (a)	17 May 1984
Gambia	9 June 1988 (a)	9 September 1988
Georgia	3 May 1994 (a)	3 August 1994
Germany	25 August 1993	25 November 1993
Guinea	17 June 1993	17 September 1993
Guyana	10 May 1993 (a)	10 August 1993
Hungary	7 September 1988 (a)	7 December 1988
Iceland	22 August 1979 (a)	22 November 1979
Ireland	8 December 1989	8 March 1990
Italy	15 September 1978	15 December 1978
Jamaica	3 October 1975	23 March 1976
Latvia	22 June 1994 (a)	22 September 1994
Libyan Arab Jamahiriya	16 May 1989 (a)	16 August 1989
Lithuania	20 November 1991 (a)	20 February 1992
Luxembourg	18 August 1983 (a)	18 November 1983
Madagascar	21 June 1971	23 March 1976
Malta	13 September 1990 (a)	13 December 1990
Mauritius	12 December 1973 (a)	23 March 1976
Mongolia	16 April 1991 (a)	16 July 1991
Nepal	14 May 1991 (a)	14 August 1991
Netherlands	11 December 1978	11 March 1979
New Zealand	26 May 1989 (a)	26 August 1989
Nicaragua	12 March 1980 (a)	12 June 1980
Niger	7 March 1986 (a)	7 June 1986
Norway	13 September 1972	23 March 1976
Panama	8 March 1977	8 June 1977
Peru	3 October 1980	3 January 1981
Philippines	22 August 1989 (a)	22 November 1989
Poland	7 November 1991 (a)	7 February 1992
Portugal	3 May 1983	3 August 1983
Republic of Korea	10 April 1990 (a)	10 July 1990
Romania	20 July 1993 (a)	20 October 1993
Russian Federation	1 October 1991 (a)	1 January 1992

State party	Date of receipt of the instrument of ratification or accession (a) or succession (d)	Date of entry into force
Saint Vincent and the Grenadines	9 November 1981 (a)	9 February 1982
San Marino	18 October 1985 (a)	18 January 1986
Senegal	13 February 1978	13 May 1978
Seychelles	5 May 1992 (a)	5 August 1992
Slovakia	28 May 1993	1 January 1993
Slovenia	16 July 1993 (a)	16 October 1993
Somalia	24 January 1990 (a)	24 April 1990
Spain	25 January 1985 (a)	25 April 1985
Suriname	28 December 1976 (a)	28 March 1977
Sweden	6 December 1971	23 March 1976
Togo	30 March 1988 (a)	30 June 1988
Trinidad and Tobago	14 November 1980 (a)	14 February 1981
Ukraine	25 July 1991 (a)	25 October 1991
Uruguay	1 April 1970	23 March 1976
Venezuela	10 May 1978	10 August 1978
Zaire	1 November 1976 (a)	1 February 1977
Zambia	10 April 1984 (a)	10 July 1984

C. States which have made the declaration under article 41 of the Covenant (44)

State party	Valid from	Valid until
Algeria	12 September 1989	Indefinitely
Argentina	8 August 1986	Indefinitely
Australia	28 January 1993	Indefinitely
Austria	10 September 1978	Indefinitely
Belarus	30 September 1992	Indefinitely
Belgium	5 March 1987	Indefinitely
Bosnia and Herzegovina	6 March 1992	Indefinitely
Bulgaria	12 May 1993	Indefinitely
Canada	29 October 1979	Indefinitely
Chile	11 March 1990	Indefinitely
Congo	7 July 1989	Indefinitely
Czech Republic	1 January 1993	Indefinitely
Denmark	23 March 1976	Indefinitely
Ecuador	24 August 1984	Indefinitely
Finland	19 August 1975	Indefinitely
Gambia	9 June 1988	Indefinitely
Germany	28 March 1979	27 March 1996
Guyana	10 May 1993	Indefinitely
Hungary	7 September 1988	Indefinitely
Iceland	22 August 1979	Indefinitely

State party	Valid from	Valid until
Ireland	8 December 1989	Indefinitely
Italy	15 September 1978	Indefinitely
Luxembourg	18 August 1983	Indefinitely
Malta	13 September 1990	Indefinitely
Netherlands	11 December 1978	Indefinitely
New Zealand	28 December 1978	Indefinitely
Norway	23 March 1976	Indefinitely
Peru	9 April 1984	Indefinitely
Philippines	23 October 1986	Indefinitely
Poland	25 September 1990	Indefinitely
Republic of Korea	10 April 1990	Indefinitely
Russian Federation	1 October 1991	Indefinitely
Senegal	5 January 1981	Indefinitely
Slovakia	1 January 1993	Indefinitely
Slovenia	6 July 1992	Indefinitely
Spain	25 January 1985	25 January 1993
Sri Lanka	11 June 1980	Indefinitely
Sweden	23 March 1976	Indefinitely
Switzerland	18 September 1992	18 September 1997
Tunisia	24 June 1993	Indefinitely
Ukraine	28 July 1992	Indefinitely
United Kingdom of Great Britain and Northern Ireland	20 May 1976	Indefinitely
United States of America	8 September 1992	Indefinitely
Zimbabwe	20 August 1991	Indefinitely

D. Status of the Second Optional Protocol aiming at the abolition of the death penalty (23) 1/

State party	Date of receipt of the instrument of ratification or accession (a)	Date of entry into force
Australia	2 October 1990 (a)	11 July 1991
Austria	2 March 1993	2 June 1993
Denmark	24 February 1994	24 May 1994
Ecuador	23 February 1993 (a)	23 May 1993
Finland	4 April 1991	11 July 1991
Germany	18 August 1992	18 November 1992
Hungary	24 February 1994 (a)	24 May 1994
Iceland	2 April 1991	11 July 1991
Ireland	18 June 1993 (a)	18 September 1993
Luxembourg	12 February 1992	12 May 1992

State party	Date of receipt of the instrument of ratification or accession (a)	Date of entry into force
Mozambique	21 July 1993 (a)	21 October 1993
Netherlands	26 March 1991	11 July 1991
New Zealand	22 February 1990	11 July 1991
Norway	5 September 1991	5 December 1991
Panama	21 January 1993 (a)	21 April 1993
Portugal	17 October 1990	11 July 1991
Romania	27 February 1991	11 July 1991
Slovenia	10 March 1994	10 June 1994
Spain	11 April 1991	11 July 1991
Sweden	11 May 1990	11 July 1991
Switzerland	16 June 1994 (a)	16 September 1994
Uruguay	21 January 1993	21 April 1993
Venezuela	22 February 1993	22 May 1993

Notes

1/ The Second Optional Protocol was adopted and opened for signature, ratification or accession in New York on 15 December 1989 and entered into force three months after the date of deposit with the Secretary-General of the tenth instrument of ratification or accession, that is, on 11 July 1991.

ANNEX II

Membership and officers of the Human Rights Committee 1993-1994

A. Membership

Mr. Francisco José AGUILAR URBINA**	Costa Rica
Mr. Nisuke ANDO*	Japan
Mr. Tamás BÁN**	Hungary
Mr. Marco Tulio BRUNI CELLI**	Venezuela
Mrs. Christine CHANET*	France
Mr. Vojin DIMITRIJEVIC*	Yugoslavia
Mr. Omran EL SHAFEI*	Egypt
Ms. Elizabeth EVATT**	Australia
Mr. Laurel FRANCIS**	Jamaica
Mr. Kurt HERNDL*	Austria
Mrs. Rosalyn HIGGINS**	United Kingdom of Great Britain and Northern Ireland
Mr. Rajsoomer LALLAH**	Mauritius
Mr. Andreas V. MAVROMMATIS**	Cyprus
Mr. Birame NDIAYE*	Senegal
Mr. Fausto POCAR**	Italy
Mr. Julio PRADO VALLEJO*	Ecuador
Mr. Waleed SADI*	Jordan
Mr. Bertil WENNERGREN*	Sweden

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* Term expires on 31 December 1994.

** Term expires on 31 December 1996.

B. Officers

The officers of the Committee, elected for two-year terms at the 1206th meeting, held on 22 March 1993, are as follows:

Chairman: Mr. Nisuke Ando

Vice-Chairmen: Mr. Vojin Dimitrijevic
Mr. Omran El Shafei
Mr. Bertil Wennergren

Rapporteur: Mr. Francisco José Aguilar Urbina

ANNEX III

Submission of reports and additional information by States parties under article 40 of the Covenant during the period under review 1/

State party	Type of report	Date due	Date of submission	Date of written reminder(s) sent, during the period under review, to States whose reports have not yet been submitted
Afghanistan	Third	23 April 1994	Not yet received	-
Albania	Initial	3 January 1993	Not yet received	(2) 10 December 1993 (3) 15 June 1994
Angola	Initial 2/	9 April 1993	Not yet received	-
Argentina	Second	7 November 1992	7 January 1994	-
Australia	Third	12 November 1991	Not yet received	(4) 10 December 1993 (5) 15 June 1994
Austria	Third	9 April 1993	Not yet received	(1) 10 December 1993 (2) 15 June 1994
Barbados	Third	11 April 1991	Not yet received	(6) 10 December 1993 (7) 15 June 1994
Belarus	Fourth	4 November 1993	Not yet received	(1) 10 December 1993 (2) 15 June 1994
Belgium	Third	20 July 1994	Not yet received	-
Benin	Initial	11 June 1993	Not yet received	(1) 10 December 1993 (2) 15 June 1994
Bolivia	Second 3/	13 July 1990	Not yet received	(7) 10 December 1993 (8) 15 June 1994
Brazil	Initial	23 April 1993	Not yet received	(1) 10 December 1993 (2) 15 June 1994
Bulgaria	Third 4/	28 April 1989	-	-
Cambodia	Initial	25 August 1993	Not yet received	(1) 10 December 1993 (2) 15 June 1994
Central African Republic	Second 5/	9 April 1989	Not yet received	(9) 10 December 1993 (10) 15 June 1994
	Third	7 August 1992	Not yet received	(3) 10 December 1993 (4) 15 June 1994
Congo	Second	4 January 1990	Not yet received	(8) 10 December 1993 (9) 15 June 1994
Côte d'Ivoire	Initial	25 June 1993	Not yet received	(1) 10 December 1993 (2) 15 June 1994
Chile	Fourth	28 April 1994	Not yet received	-
Croatia	Initial	7 October 1992	Not yet received	(1) 10 December 1993 (2) 15 June 1994
Cyprus	Third	18 August 1989	-	-

State party	Type of report	Date due	Date of submission	Date of written reminder(s) sent, during the period under review, to States whose reports have not yet been submitted
Democratic People's Republic of Korea	Second	13 December 1987	Not yet received	(12) 10 December 1993 (13) 15 June 1994
	Third	13 December 1992	Not yet received	(2) 10 December 1993 (3) 15 June 1994
Denmark	Third	1 November 1990	Not yet received	(7) 10 December 1993 (8) 15 June 1994
Dominican Republic	Fourth	3 April 1994	Not yet received	(1) 15 June 1994
Ecuador	Fourth	4 November 1993	Not yet received	(1) 10 December 1993 (2) 15 June 1994
El Salvador	Second 6/	31 December 1988	26 August 1993	-
	Third 7/	28 February 1991	-	-
Equatorial Guinea	Initial	24 December 1988	Not yet received	(10) 10 December 1993 (11) 15 June 1994
	Second	24 December 1993	Not yet received	(1) 15 June 1994
Egypt	Third 8/	13 April 1993	-	-
Estonia	Initial	20 January 1993	Not yet received	(2) 10 December 1993 (3) 15 June 1994
France	Third	3 February 1992	Not yet received	(4) 10 December 1993 (5) 15 June 1994
Gabon	Initial	20 April 1984	Not yet received	(19) 10 December 1993 (20) 15 June 1994
	Second	20 April 1989	Not yet received	(9) 10 December 1993 (10) 15 June 1994
	Third	20 April 1994	Not yet received	(1) 15 June 1994
Gambia	Second	21 June 1985	Not yet received	(18) 10 December 1993 (19) 15 June 1994
	Third	21 June 1990	Not yet received	(7) 10 December 1993 (8) 15 June 1994
Germany	Fourth	3 August 1993	Not yet received	(1) 10 December 1993 (2) 15 June 1994
Grenada	Initial	5 December 1992	Not yet received	(2) 10 December 1993 (3) 15 June 1994
Guatemala	Initial	4 August 1993	Not yet received	(1) 10 December 1993 (2) 15 June 1994
Guyana	Second	10 April 1987	Not yet received	(14) 10 December 1993 (15) 15 June 1994
	Third	10 April 1992	Not yet received	(4) 10 December 1993 (5) 15 June 1994
Haiti	Initial	5 May 1992	Not yet received	(3) 15 June 1994
Iceland	Third 9/	30 October 1992	-	-
India	Third 10/	31 March 1992	Not yet received	(4) 10 December 1993 (5) 15 June 1994
Iran (Islamic Republic of)	Third 11/	21 March 1988	-	-

State party	Type of report	Date due	Date of submission	Date of written reminder(s) sent, during the period under review, to States whose reports have not yet been submitted
Israel	Initial	2 January 1993	Not yet received	(2) 10 December 1993 (3) 15 June 1994
Jamaica	Second	1 August 1986	Not yet received	(14) 10 December 1993 (15) 15 June 1994
	Third	1 August 1991	Not yet received	(5) 10 December 1993 (6) 15 June 1994
Kenya	Second	11 April 1986	Not yet received	(16) 10 December 1993 (17) 15 June 1994
	Third	11 April 1991	Not yet received	(6) 10 December 1993 (7) 15 June 1994
Lebanon	Second	21 March 1986	Not yet received	(17) 10 December 1993 (18) 15 June 1994
	Third	21 March 1988	Not yet received	(12) 10 December 1993 (13) 15 June 1994
	Fourth	21 March 1993	Not yet received	(1) 15 June 1994
Lithuania	Initial	19 February 1993	Not yet received	(2) 10 December 1993 (3) 15 June 1994
Libyan Arab Jamahiriya	Third	4 February 1988	Not yet received	-
	Fourth	4 February 1993	Not yet received	-
Madagascar	Third 12/	31 July 1992	Not yet received	(3) 10 December 1993 (4) 15 June 1994
	Fourth	3 August 1993	Not yet received	(1) 10 December 1993 (2) 15 June 1994
Mali	Second	11 April 1986	Not yet received	(16) 10 December 1993 (17) 15 June 1994
	Third	11 April 1991	Not yet received	(6) 10 December 1993 (7) 15 June 1994
Mauritius	Third 13/	18 July 1990	Not yet received	(7) 10 December 1993 (8) 15 June 1994
	Fourth	4 November 1993	Not yet received	(1) 10 December 1993 (2) 15 June 1994
Nepal	Initial	13 August 1992	30 March 1994	-
Netherlands Antilles	Second	31 October 1986	Not yet received	(8) 10 December 1993 (9 15 June 1994
Netherlands	Third	31 October 1991	Not yet received	(5) 10 December 1993 (6) 15 June 1994
New Zealand - Cook Islands	Second	27 March 1985	Not yet received	(8) 10 December 1993
New Zealand	Third	27 March 1990	1 April 1994	-
Nicaragua	Third	11 June 1991	Not yet received	(5) 10 December 1993 (6) 15 June 1994
Niger	Second 14/	31 March 1994	Not yet received	(1) 15 June 1994

State party	Type of report	Date due	Date of submission	Date of written reminder(s) sent, during the period under review, to States whose reports have not yet been submitted
Panama	Third 15/	31 March 1992	Not yet received	(4) 10 December 1993 (5) 15 June 1994
	Fourth	6 June 1993	Not yet received	(1) 10 December 1993 (2) 15 June 1994
Peru	Third	9 April 1993	Not yet received	(1) 10 December 1993 (2) 15 June 1994
Philippines	Second	22 January 1993	Not yet received	(2) 10 December 1993 (3) 15 June 1994
Portugal	Third	1 August 1991	Not yet received	(5) 10 December 1993 (6) 15 June 1994
Republic of Moldova	Initial	25 April 1994	Not yet received	-
Russian Federation	Fourth	4 November 1993	Not yet received	-
Rwanda	Third	10 April 1992	Not yet received	(4) 10 December 1993
Saint Vincent and the Grenadines	Second 16/	31 October 1991	Not yet received	(5) 19 November 1993 (6) 15 June 1994
	Third	8 February 1993	Not yet received	(2) 19 November 1993 (3) 15 June 1994
San Marino	Second	17 January 1992	Not yet received	(4) 10 December 1993 (5) 15 June 1994
Seychelles	Initial	4 August 1993	Not yet received	(1) 10 December 1993 (2) 15 June 1994
Slovenia	Initial	24 June 1992	1 October 1993	-
Somalia	Initial	23 April 1991	Not yet received	(5) 10 December 1993 (6) 15 June 1994
Spain	Fourth	28 April 1994	2 June 1994	-
Sri Lanka	Third	10 September 1991	18 July 1994	-
Sudan	Second	17 June 1992	Not yet received	(3) 10 December 1993 (4) 15 June 1994
Suriname	Second	2 August 1985	Not yet received	(17) 10 December 1993 (18) 15 June 1994
	Third	2 August 1990	Not yet received	(7) 10 December 1993 (8) 15 June 1994
Switzerland	Initial	17 September 1993	Not yet received	(1) 10 December 1993 (2) 15 June 1994
Syrian Arab Republic	Second	18 August 1984	Not yet received	(20) 10 December 1993 (21) 15 June 1994
	Third	18 August 1989	Not yet received	(9) 10 December 1993 (10) 15 June 1994
Togo	Second	9 July 1990	29 December 1993	-
Trinidad and Tobago	Third	20 March 1990	Not yet received	(8) 10 December 1993 (9) 15 June 1994

State party	Type of report	Date due	Date of submission	Date of written reminder(s) sent, during the period under review, to States whose reports have not yet been submitted
United Republic of Tanzania	Third 17/	31 December 1993	Not yet received	(1) 15 June 1994
United States of America	Initial	7 September 1993	29 July 1994	-
Uruguay	Fourth	21 March 1993	Not yet received	(1) 10 December 1993 (2) 15 June 1994
Venezuela	Third 18/	31 December 1993	Not yet received	(1) 15 June 1994
Viet Nam	Second 19/	31 July 1991	Not yet received	(5) 10 December 1993 (6) 15 June 1994
Yugoslavia	Fourth	3 August 1993	Not yet received	(1) 10 December 1993 (2) 15 June 1994
Zaire	Third 20/	31 July 1991	Not yet received	(5) 10 December 1993 (6) 15 June 1994
Zambia	Second	9 July 1990	Not yet received	(7) 10 December 1993 (8) 15 June 1994
Zimbabwe	Initial	12 August 1992	Not yet received	(3) 10 December 1993 (4) 15 June 1994

Notes

1/ From 1 August 1993 to 29 July 1994 (end of the fifty-first session).

2/ Pursuant to the Committee's decision of 29 October 1993 (forty-ninth session), Angola was requested to submit a report relating to recent and current events affecting the implementation of the Covenant in the country for consideration at the fiftieth session.

3/ At its thirty-sixth session (914th meeting), the Committee decided to extend the deadline for the submission of the second periodic report of Bolivia from 11 November 1988 to 13 July 1990.

4/ At its forty-eighth session (1258th meeting), the Committee decided to extend the deadline for the submission of the third periodic report of Bulgaria from 28 April 1989 to 31 December 1994.

5/ At its thirty-second session (794th meeting), the Committee decided to extend the deadline for the submission of the second periodic report of the Central African Republic from 7 August 1987 to 9 April 1989.

6/ At its twenty-ninth session, the Committee decided to extend the deadline for the submission of the second periodic report of El Salvador from 28 February 1986 to 31 December 1988.

7/ Pursuant to the Committee's decision taken at its fiftieth session (1319th meeting), the new date for the submission of the third periodic report of El Salvador is 31 December 1995.

8/ Pursuant to the Committee's decision taken at its forty-eighth session (1258th meeting), the new date for the submission of the third periodic report of Egypt is 31 December 1994.

9/ Pursuant to the Committee's decision taken at its forty-ninth session (1281st meeting), the new date for the submission of the third periodic report of Iceland is 31 December 1994.

10/ At its forty-first session (1062nd meeting), the Committee decided to extend the deadline for the submission of the third periodic report of India from 9 July 1990 to 31 March 1992.

11/ At its forty-eighth session (1258th meeting), the Committee decided to extend the deadline for the submission of the third periodic report of the Islamic Republic of Iran from 21 March 1988 to 31 December 1994.

12/ At its forty-third session (1112th meeting), the Committee decided to extend the deadline for the submission of the third periodic report of Madagascar from 3 August 1988 to 31 July 1992.

13/ At its thirty-sixth session (914th meeting), the Committee decided to extend the deadline for the submission of Mauritius' third periodic report from 4 November 1988 to 18 July 1990.

14/ At its forty-seventh session (1215th meeting), the Committee decided to extend the deadline for the submission of the second periodic report of Niger from 6 June 1992 to 31 March 1994.

15/ At its forty-first session (1062nd meeting), the Committee decided to extend the deadline for the submission of the third periodic report of Panama from 6 June 1988 to 31 March 1992.

16/ At its thirty-eighth session (973rd meeting), the Committee decided to extend the deadline for the submission of the second periodic report of Saint Vincent and the Grenadines from 8 February 1988 to 31 October 1991.

17/ At its forty-sixth session (1205th meeting), the Committee decided to extend the deadline for the submission of the third periodic report of the United Republic of Tanzania from 11 April 1991 to 31 December 1993.

18/ At its forty-sixth session (1205th meeting), the Committee decided to extend the deadline for the submission of the third periodic report of Venezuela from 1 November 1991 to 31 December 1993.

19/ At its thirty-ninth session (1003rd meeting), the Committee decided to extend the deadline for the submission of the second periodic report of Viet Nam from 23 December 1988 to 31 July 1991.

20/ At its thirty-ninth session (1003rd meeting), the Committee decided to extend the deadline for the submission of the third periodic report of Zaire from 30 January 1988 to 31 July 1991.

ANNEX IV

Status of reports considered during the period under review and of reports still pending before the Committee

State party	Date due	Date of submission	Meetings at which considered
		A. Initial reports	
Malta	12 December 1991	18 May 1993	1283rd and 1287th (forty-ninth session)
Slovenia	24 June 1992	1 October 1993	1343rd and 1347th (fifty-first session)
Nepal	13 August 1992	30 March 1994	Not yet considered
Latvia	13 July 1993	12 July 1993	Not yet considered
United States of America	7 September 1993	29 July 1994	Not yet considered
Paraguay	9 September 1993	1 February 1994	Not yet considered
Azerbaijan	12 November 1993	21 January 1994	1332nd and 1336th (fifty-first session)
		B. Second periodic reports	
Libyan Arab Jamahiriya	4 February 1983	4 February 1993	1275th-1276th 1/ (forty-ninth session)
Cyprus	18 August 1984	19 July 1993	1333rd-1335th (fifty-first session)
Iceland	30 October 1987	2 June 1993	1266th-1268th (forty-ninth session)
El Salvador	31 December 1988	26 August 1993	1310th-1313th (fiftieth session)
Afghanistan	23 April 1989	23 March 1992	Not yet considered
Togo	9 July 1990	29 December 1993	1325th-1327th (fifty-first session)
Cameroon	26 September 1990	18 February 1993	1306th-1308th (fiftieth session)
Argentina	7 November 1992	7 January 1994	Not yet considered
Yemen	8 May 1993	10 May 1993	Not yet considered

State party	Date due	Date of submission	Meetings at which considered

C. Third periodic reports

Romania	28 April 1989	30 July 1992	1284th-1286th (forty-ninth session)
New Zealand	27 March 1990	1 April 1994	Not yet considered
Italy	1 November 1990	23 October 1992	1329th-1331st (fifty-first session)
Norway	1 August 1991	28 January 1992	1270th-1272nd (forty-ninth session)
Costa Rica	2 August 1991	24 November 1992	1298th-1300th (fiftieth session)
Sri Lanka	10 September 1991	18 July 1994	Not yet considered
Japan	31 October 1991	16 December 1991	1277th-1280th (forty-ninth session)
Jordan	22 January 1992	26 May 1992	1321st-1324th (fifty-first session)
Mexico	22 June 1992	23 June 1992	1302nd-1305th (fiftieth session)
Morocco	31 December 1992	20 July 1993	Not yet considered

D. Fourth periodic reports

Tunisia	4 February 1993	23 March 1993	Not yet considered
Spain	28 April 1994	2 June 1994	Not yet considered
Ukraine	18 August 1994	13 July 1994	Not yet considered

E. Reports submitted pursuant to a special decision taken by the Committee 2/

Burundi	-	12 July 1994	1349th and 1350th (fifty-second session)

State party	Date due	Date of submission	Meetings at which considered
F. Additional information submitted subsequent to the examination of initial reports by the Committee 3/			
Kenya	-	4 May 1982	Not yet considered
Gambia	-	5 June 1984	Not yet considered
G. Additional information submitted subsequent to the examination of periodic reports by the Committee			
Morocco	-	2 November 1993	Not yet considered

Notes

1/ In view of the exhaustion of time allocated for its consideration, the Committee could not conclude the consideration of the report and decided to take it up again at a later stage.

2/ Special decision adopted by the Committee on 29 October 1994 (see para. 61 above).

3/ At its twenty-fifth session (601st meeting), the Committee decided to consider additional information submitted subsequent to the examination of initial reports together with the State party's second periodic report.

ANNEX V

General comments under article 40, paragraph 4, of the International Covenant on Civil and Political Rights 1/

General comment No. 23 (50) (art. 27) 2/, 3/

1. Article 27 of the Covenant provides that, in those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language. The Committee observes that this article establishes and recognizes a right which is conferred on individuals belonging to minority groups and which is distinct from, and additional to, all the other rights which, as individuals in common with everyone else, they are already entitled to enjoy under the Covenant.

2. In some communications submitted to the Committee under the Optional Protocol, the right protected under article 27 has been confused with the right of peoples to self-determination proclaimed in article 1 of the Covenant. Further, in reports submitted by States parties under article 40 of the Covenant, the obligations placed upon States parties under article 27 have sometimes been confused with their duty under article 2, paragraph 1, to ensure the enjoyment of the rights guaranteed under the Covenant without discrimination and also with equality before the law and equal protection of the law under article 26.

3.1. The Covenant draws a distinction between the right to self-determination and the rights protected under article 27. The former is expressed to be a right belonging to peoples and is dealt with in a separate part (part I) of the Covenant. Self-determination is not a right cognizable under the Optional Protocol. Article 27, on the other hand, relates to rights conferred on individuals as such and is included, like the articles relating to other personal rights conferred on individuals, in part III of the Covenant and is cognizable under the Optional Protocol. 4/

3.2. The enjoyment of the rights to which article 27 relates does not prejudice the sovereignty and territorial integrity of a State party. At the same time, one or other aspect of the rights of individuals protected under that article - for example, to enjoy a particular culture - may consist in a way of life which is closely associated with territory and use of its resources. 5/ This may particularly be true of members of indigenous communities constituting a minority.

4. The Covenant also distinguishes the rights protected under article 27 from the guarantees under article 2, paragraph 1, and article 26. The entitlement, under article 2, paragraph 1, to enjoy the rights under the Covenant without discrimination applies to all individuals within the territory or under the jurisdiction of the State whether or not those persons belong to a minority. In addition, there is a distinct right provided under article 26 of equality before the law, equal protection of the law, and non-discrimination in respect of rights granted and obligations imposed by the States. It governs the exercise of all rights, whether protected under the Covenant or not, which the State party confers by law on individuals within its territory or under its jurisdiction, irrespective of whether they belong to the minorities specified in

article 27 or not. 6/ Some States parties who claim that they do not discriminate on grounds of ethnicity, language or religion wrongly contend, on that basis alone, that they have no minorities.

5.1. The terms used in article 27 indicate that the persons designed to be protected are those who belong to a group and who share in common a culture, a religion and/or a language. Those terms also indicate that the individuals designed to be protected need not be citizens of the State party. In this regard, the obligations deriving from article 2, paragraph 1, are also relevant, since a State party is required under that article to ensure that the rights protected under the Covenant are available to all individuals within its territory and subject to its jurisdiction, except rights which are expressly made to apply to citizens, for example, political rights under article 25. A State party may not, therefore, restrict the rights under article 27 to its citizens alone.

5.2. Article 27 confers rights on persons belonging to minorities which "exist" in a State party. Given the nature and scope of the rights envisaged under the article, it is not relevant to determine the degree of permanence that the term "exist" connotes. Those rights simply are that individuals belonging to those minorities should not be denied the right, in community with members of their group, to enjoy their own culture, to practise their religion and speak their language. Just as they need not be nationals or citizens, they need not be permanent residents. Thus, migrant workers or even visitors in a State party constituting such minorities are entitled not to be denied the exercise of those rights. As any other individual in the territory of the State party, they would, also for this purpose, have the general rights, for example, to freedom of association, of assembly and of expression. The existence of an ethnic, religious or linguistic minority in a given State party does not depend upon a decision by that State party but requires to be established by objective criteria.

5.3. The right of individuals belonging to a linguistic minority to use their language among themselves, in private or in public, is distinct from other language rights protected under the Covenant. In particular, it should be distinguished from the general right to freedom of expression protected under article 19. The latter right is available to all persons, irrespective of whether they belong to minorities or not. Further, the right protected under article 27 should be distinguished from the particular right which article 14, paragraph 3 (f), of the Covenant confers on accused persons to interpretation where they cannot understand or speak the language used in the courts. Article 14, paragraph 3 (f), does not in any other circumstances confer on accused persons the right to use or speak the language of their choice in court proceedings. 7/

6.1. Although article 27 is expressed in negative terms, that article, nevertheless, does recognize the existence of a "right" and requires that it shall not be denied. Consequently, a State party is under an obligation to ensure that the existence and the exercise of this right are protected against denial or violation. Positive measures of protection are, therefore, required not only against the acts of the State party itself, whether through its legislative, judicial or administrative authorities, but also against the acts of other persons within the State party.

6.2. Although the rights protected under article 27 are individual rights, they depend in turn on the ability of the minority group to maintain its culture, language or religion. Accordingly, positive measures by States may also be necessary to protect the identity of a minority and the rights of its members to enjoy and develop their culture and language and to practise their religion, in community with the other members of the group. In this connection, it has to be observed that such positive measures must respect the provisions of article 2, paragraph 1, and article 26 of the Covenant, both as regards the treatment accorded different minorities and the treatment accorded the persons belonging to them and the remaining part of the population. However, as long as those measures are aimed at correcting conditions which prevent or impair the enjoyment of the rights guaranteed under article 27, they may constitute a legitimate differentiation under the Covenant, provided that they are based on reasonable and objective criteria.

7. With regard to the exercise of the cultural rights protected under article 27, the Committee observes that culture manifests itself in many forms, including a particular way of life associated with the use of land resources, especially in the case of indigenous peoples. That right may include such traditional activities as fishing or hunting and the right to live in reserves protected by law. 8/ The enjoyment of those rights may require positive legal measures of protection and measures to ensure the effective participation of members of minority communities in decisions which affect them.

8. The Committee observes that none of the rights protected under article 27 of the Covenant may be legitimately exercised in a manner or to an extent inconsistent with the other provisions of the Covenant.

9. The Committee concludes that article 27 relates to rights whose protection imposes specific obligations on States parties. The protection of these rights is directed to ensure the survival and continued development of the cultural, religious and social identity of the minorities concerned, thus enriching the fabric of society as a whole. Accordingly, the Committee observes that these rights must be protected as such and should not be confused with other personal rights conferred on one and all under the Covenant. States parties, therefore, have an obligation to ensure that the exercise of these rights is fully protected and they should indicate in their reports the measures they have adopted to this end.

Notes

1/ For the nature and purpose of the general comments, see Official Records of the General Assembly, Thirty-sixth Session, Supplement No. 40 (A/36/40), annex VII, introduction. For a description of the history of the method of work, the elaboration of general comments and their use, see ibid., Thirty-ninth Session, Supplement No. 40 (A/39/40) and Corr.1 and 2), paras. 541-557. For the text of the general comments already adopted by the Committee, see ibid., Thirty-sixth Session, Supplement No. 40 (A/36/40), annex VII; ibid., Thirty-seventh Session, Supplement No. 40 (A/37/40), annex V; ibid., Thirty-eighth Session, Supplement No. 40 (A/38/40), annex VI; ibid., Thirty-ninth Session, Supplement No. 40 (A/39/40) and Corr.1 and 2), annex VI; ibid., Fortieth Session, Supplement No. 40 (A/40/40), annex VI; ibid., Forty-first Session, Supplement No. 40 (A/41/40), annex VI; ibid., Forty-third Session, Supplement No. 40 (A/43/40), annex VI; ibid., Forty-fourth Session, Supplement No. 40 (A/44/40), annex VI; ibid., Forty-fifth Session, Supplement No. 40 (A/45/40), annex VI; ibid., Forty-seventh Session, Supplement No. 40 (A/47/40), annex VI; and ibid., Forty-eighth Session, Supplement No. 40

(A/48/40), annex VI. Also issued in documents CCPR/C/21/Rev.1 and Rev.1/Add.1-5.

2/ Adopted by the Committee at its 1314th meeting (fiftieth session), on 6 April 1994.

3/ The number in parenthesis indicates the session at which the general comment was adopted.

4/ See Official Records of the General Assembly, Thirty-ninth Session, Supplement No. 40 (A/39/40), annex VI, general comment No. 12 (21) (art. 1), also issued in document CCPR/C/21/Rev.1; ibid., Forty-fifth Session, Supplement No. 40 (A/45/40), vol. II, annex IX, sect. A, communication No. 167/1984 (Bernard Ominayak, Chief of the Lubicon Lake Band v. Canada), views adopted on 26 March 1990.

5/ Ibid., Forty-third Session, Supplement No. 40 (A/43/40), annex VII, sect. G, communication No. 197/1985 (Kitok v. Sweden), views adopted on 27 July 1988.

6/ Ibid., Forty-second Session, Supplement No. 40 (A/42/40), annex VIII, sect. D, communication No. 182/1984 (F. H. Zwaan-de Vries v. the Netherlands), views adopted on 9 April 1987; ibid., sect. C, communication No. 180/1984 (L. G. Danning v. the Netherlands), views adopted on 9 April 1987.

7/ Ibid., Forty-fifth Session, Supplement No. 40, (A/45/40), vol. II, annex X, sect. A, communication No. 220/1987 (T. K. v. France), decision of 8 November 1989; ibid., sect. B, communication No. 222/1987 (M. K. v. France), decision of 8 November 1989.

8/ See notes 1 and 2 above, communication No. 167/1984 (Bernard Ominayak, Chief of the Lubicon Lake Band v. Canada), views adopted on 26 March 1990, and communication No. 197/1985 (Kitok v. Sweden), views adopted on 27 July 1988.

ANNEX VI

Amended rules of procedure

At its 1269th meeting (forty-ninth session), held on 21 October 1993, the Human Rights Committee amended rule 70, paragraph 3, of its rules of procedure. At its 1319th meeting (fiftieth session) and 1345th meeting (fifty-first session), held on 8 April and 21 July 1994, respectively, the Committee adopted new rules concerning the Special Rapporteur for follow-up on views and confidentiality. The text of rule 70 as amended and of new rules 95 to 99 read as follows:

"Rule 70

"1. When considering a report submitted by a State party under article 40 of the Covenant, the Committee shall first satisfy itself that the report provides all the information required under rule 66 of these rules.

"2. If a report of a State party to the Covenant, in the opinion of the Committee, does not contain sufficient information, the Committee may request that State to furnish the additional information which is required, indicating by what date the said information should be submitted.

"3. On the basis of its examination of the reports and information supplied by a State party, the Committee in accordance with article 40, paragraph 4, of the Covenant, may make such comments as it may consider appropriate."

"Rule 95

"1. The Committee shall designate a Special Rapporteur for follow-up on views adopted under article 5, paragraph 4, of the Optional Protocol, for the purpose of ascertaining the measures taken by States parties to give effect to the Committee's views.

"2. The Special Rapporteur may make such contacts and take such action as appropriate for the due performance of the follow-up mandate. The Special Rapporteur shall make such recommendations for further action by the Committee as may be necessary.

"3. The Special Rapporteur shall regularly report to the Committee on follow-up activities.

"4. The Committee shall include information on follow-up activities in its annual report."

"Rule 96

"1. All decisions not of a final nature adopted by the Committee in the course of consideration of a communication under the Protocol are confidential. They are transmitted to the parties solely for information or for the purpose of soliciting information, observations or clarifications in respect of: (a) questions of admissibility; (b) the merits of the claims; or (c) any remedial action that may have been taken by the State party. No publicity shall be given by the parties to the content of these decisions, which will remain confidential except to the extent that they may be reflected in later decisions of a final nature.

"2. Notwithstanding paragraph 1 above, interim measures requested under rule 86 shall not be subject to the rule of confidentiality.

"3. Decisions of a final nature are normally made public by the Committee.

"(a) Decisions declaring communications inadmissible under the Protocol will normally become public shortly after they have been forwarded to the parties. As a rule, the identity of the authors will be indicated in the text made public, unless the Committee decides otherwise;

"(b) The Committee's views on the merits of the claims become public shortly after they have been forwarded to the parties under article 5, paragraph 4, of the Protocol.

"4. The text of a decision made public shall carry an indication to that effect.

"Rule 97

"1. All submissions made by the parties in respect of communications considered under the Protocol shall remain confidential until a final decision has been forwarded to the parties pursuant to rule 95. The parties are under an obligation to observe and respect this rule of confidentiality and shall refrain from giving publicity to any submissions while a communication is under consideration. Thereafter, both parties are free to release their own submissions.

"2. If the identity of the author of a communication declared inadmissible has not been disclosed by the Committee, the State party shall refrain from disclosing his identity.

"Rule 98

"All working documents issued for the Committee by the Secretariat, or placed before a working group established pursuant to rule 89, paragraph 1, or placed before a special rapporteur designated pursuant to rule 89, paragraph 3, are confidential and remain confidential after consideration of a communication is concluded, unless the Committee decides otherwise. This includes the Secretariat summaries of communications, prepared pursuant to rule 79, paragraph 1, which may be made available to States parties at the time when they are requested, under rule 91, paragraph 1, to submit information or observations relevant to the question of admissibility of a communication.

"Rule 99

"Information furnished by the parties within the framework of follow-up to the Committee's views is not subject to confidentiality, unless the Committee decides otherwise. Decisions of the Committee relating to follow-up activities are equally not subject to confidentiality, unless the Committee decides otherwise."

ANNEX VII

Letter from the Chairman of the Committee concerning an overdue report

Letter dated 5 November 1993 from the Chairman of the Committee to the Minister of Foreign Affairs of the Russian Federation, whose fourth periodic report was overdue

On behalf of the Human Rights Committee, established under the International Covenant on Civil and Political Rights, I have the honour to invite Your Excellency's attention to a matter to which the Committee attaches special importance.

Under article 40 of the Covenant, each State party undertakes to submit reports on the measures it has adopted to give effect to the rights recognized therein. Paragraph 1 (a) of that article provides for the submission of an initial report within one year of entry into force of the Covenant for the State party concerned, whereas paragraph 1 (b) calls for the submission of subsequent reports "whenever the Committee so requests".

At its thirteenth session, held in July 1981, the Human Rights Committee decided that States parties should submit periodic reports concerning the implementation of the provisions of the Covenant every five years. The due date established for the submission of the Russian Federation's fourth periodic report was 4 November 1993. Unfortunately, that report has not yet been received.

The submission of such reports is indispensable for continuing the Committee's positive dialogue with the States parties in the field of human rights. The non-submission of the Russian Federation's fourth periodic report is therefore a matter of great concern to the Committee. In view of the importance of this matter and the special difficulties being encountered in the implementation of the Covenant in the Russian Federation, it is my most earnest hope that its fourth periodic report will be submitted in the near future.

(*Signed*) Nisuke Ando
Chairman
Human Rights Committee

ANNEX VIII

List of States parties' delegations that participated in consideration of their respective reports by the Human Rights Committee at its forty-ninth, fiftieth and fifty-first sessions

MALTA	Representative	Dr. Anthony Borg-Barthet Attorney-General for the Republic of Malta
	Alternate Representative	Dr. Lawrence Quintano Senior Counsel for the Republic of Malta
	Adviser	Mr. Martin Valentino Chargé d'affaires a.i., Permanent Mission of Malta to the United Nations Office at Geneva
ICELAND	Representative	Mr. Kjartan Jóhannsson Ambassador, Permanent Representative, Permanent Mission of Iceland to the United Nations Office at Geneva
	Alternate Representative	Mr. Thorsteinn Geirsson Secretary General, Ministry of Justice
	Advisers	Ms. Björg Thorarensen Legal Adviser, Ministry of Justice
		Prof. Markús Sigurbjörnsson University of Iceland, Legal Adviser
		Ms. Lilja Ólafsdóttir Counsellor, Deputy Permanent Representative, Permanent Mission of Iceland to the United Nations Office at Geneva
NORWAY	Representative	Mr. Haakon B. Hjelde Ambassador, Ministry of Foreign Affairs
	Alternate Representative	Mr. Petter F. Wille Head of Division, Ministry of Foreign Affairs
	Adviser	Ms. Hilde Indreberg Legal Counsellor, Ministry of Justice
JAPAN	Representative	Mr. Minoru Endo Ambassador, Permanent Representative, Permanent Mission of Japan to the United Nations Office at Geneva
	Alternate Representative	Mr. Toshio Kunikata Director, Human Rights and Refugee Division, Multilateral Cooperation Department, Foreign Policy Bureau, Ministry of Foreign Affairs

	Advisers	Mr. Tetsuo Ito Minister, Permanent Mission of Japan to the United Nations Office at Geneva
		Mr. Hiroshi Mitani Director, General Affairs, Division, Correction Bureau, Ministry of Justice
		Mr. Jun Watanabe Director, International Affairs Division, Criminal Affairs Bureau, Ministry of Justice
		Mr. Masahiro Ono Special Assistant for Detention Administration, General Affairs Division, Commissioner-General's Secretariat, National Police Agency
		Mr. Keiichi Aizawa First Secretary, Permanent Mission of Japan to the United Nations Office at Geneva
		Mr. Tatsuya Nagai Assistant Director, International Criminal Affairs Division, Criminal Investigation Bureau, National Police Agency
		Mr. Yasuhisa Mizuno Policy Office of Regional Improvement, Management and Coordination Agency
		Mr. Takeshi Goto Human Rights and Refugee Division, Multilateral Cooperation Department, Foreign Policy Bureau. Ministry of Foreign Affairs
		Mr. Tsutomu Takaguchi Human Rights and Refugee Division, Multilateral Cooperation Department, Foreign Policy Bureau, Ministry of Foreign Affairs
		Ms. Mari Tomita Attaché, Permanent Mission of Japan to the United Nations Office at Geneva
ROMANIA	Representative	M. Florin Costiniu Secretary of State, Ministry of Justice
	Advisers	M. Alexandru Farcas Director, Human Rights Division, Ministry of Foreign Affairs
		M. Sergiu Margineanu First Secretary, Permanent Mission of Romania to the United Nations Office at Geneva

COSTA RICA	Representative	Mr. Christian Tattenbach Permanent Representative, Permanent Mission of Costa Rica to the United Nations
	Alternate Representative	Mr. Jorge Rhenan Segura Chargé d'affaires a.i., Permanent Mission of Costa Rica to the United Nations Office at Geneva
	Adviser	Mrs. Emilia Castro de Barish Permanent Mission of Costa Rica to the United Nations
MEXICO	Representative	Mr. Miguel Angel González Felix Coordinator for Human Rights and Drug Trafficking, Secretariat of Foreign Affairs
	Advisers	Lic. Manuel Carrillo Poblano Coordinator for International Affairs, Federal Electoral Institute
		Lic. María de Lourdes Aranda Bezaury Adviser, Office of the Coordinator for Human Rights and Drug Trafficking, Secretariat of Foreign Affairs
		Lic. Mónica Mora Valdéz Adviser, Office of the Coordinator for Human Rights and Drug Trafficking, Secretariat of Foreign Affairs
		Lic. Manuel Collado Martínez Adviser to the Director-General of the Federal Electoral Institute
		Sra. Yanerit Morgan First Secretary, Permanent Mission of Mexico to the United Nations
		Lic. Socorro Flores Liera Adviser to the Under-Secretary, Secretariat of Foreign Affairs
CAMEROON	Representative	M. Pascal Biloa Tang Ambassador, Permanent Representative, Permanent Mission of the Republic of Cameroon to the United Nations
	Alternate Representative	M. Toussaint Zibi Nsoe Judge, attached to the Office of the President of the Republic
	Advisers	M. Joseph Eva Director of Political Affairs, Ministry of Territorial Administration
		M. Magnus Ekoumou Secretary for Foreign Affairs, Ministry of Foreign Affairs

		Mme Pascaline Boum First Secretary, Permanent Mission of the Republic of Cameroon to the United Nations
EL SALVADOR	Representative	Sr. Ricardo G. Castaneda Cornejo Ambassador, Permanent Representative to the United Nations
	Advisers	Sr. Guillermo A. Meléndez Ambassador, Deputy Permanent Representative to the United Nations
		Srta. Elizabeth Villalta Legal Adviser, Ministry of Foreign Affairs
JORDAN	Representative	Dr. Fahad Abdul-Ethem Judge, Supreme Court
	Alternate Representative	Mr. Mohammad Al Khasawneh Human Rights Specialist
	Adviser	Dr. Ghazi El Rashdan Legal Consultant, Ministry of Foreign Affairs
TOGO	Representative	M. Aboudou Assouma Counsellor, Constitutional Chamber of the Supreme Court
	Advisers	M. Roland Y. Kpotsra Secretary-General, Ministry of Foreign Affairs and Cooperation
		M. Komi B. Gnondoli Chief of Staff of Minister of Human Rights and Rehabilitation, responsible for relations with Parliament
ITALY	Representative	M. Paolo Torella di Romagnano Ambassador, Ministry of Foreign Affairs
	Alternate Representative	Prof. Luigi Citarella Secretary-General, Inter-Ministerial Committee on Human Rights
	Advisers	Mme Vanna Palumbo Expert, Ministry of the Interior
		Mme Anna Passannanti Judge, Ministry of Justice
		Mme Daniela Carla Expert, Ministry of Labour
		M. Daniele Verga First Counsellor, Permanent Mission of Italy to the United Nations Office at Geneva

CYPRUS	Representative	Mr. George Stavrinakis Law Commissioner (Law Reform Commission)
	Alternate Representative	Mrs. Loria Markides Chargé d'affaires a.i. Deputy Permanent Representative of the Republic of Cyprus to the United Nations Office at Geneva
	Adviser	Mrs. Eleni Loisidou Counsel of the Republic Office of the Attorney-General of the Republic of Cyprus
SLOVENIA	Representative	Dr. Alenka Selih Professor of Law
	Advisers	Mr. Andrej Logar Deputy Permanent Representative of the Republic of Slovenia to the United Nations Office at Geneva
		Mr. Borut Mahnic Head of the Department of International Law, Ministry for Foreign Affairs
		Mr. Slavko Debelak Head of the Legal Department, Home Affairs Ministry
		Mrs. Milena Smit Under-Secretary, Ministry for Foreign Affairs
BURUNDI	Representative	Mr. Jean Makença Chief of Staff, Minister of Justice
	Advisers	Mme Perpétue Nshimirimana Permanent Representative, Permanent Mission of Burundi to the United Nations Office at Geneva
		Mr. Charles Ndikuriyo Director, Centre for the Promotion of Human Rights

ANNEX XI

Recommendation submitted by the Committee to the Subcommission on Prevention of Discrimination and Protection of Minorities concerning a draft third optional protocol to the International Covenant on Civil and Political Rights

1. As requested by the Subcommission in paragraph 4 of its resolution 1993/26, the Human Rights Committee has considered the text of a possible draft third optional protocol to the International Covenant on Civil and Political Rights. The Committee wishes to offer the following comments 1/ which are limited essentially to the question of the desirability of drafting a third optional protocol, aiming at guaranteeing under all circumstances the right to a fair trial and remedy.

2. The Committee notes that the purpose of the possible draft optional protocol is to add article 9, paragraphs 3 and 4, and article 14 to the list of non-derogable provisions in article 4, paragraph 2, of the Covenant. Based on its experience derived from the consideration of States parties' reports submitted under article 40 of the Covenant, the Committee wishes to point out that, with respect to article 9, paragraphs 3 and 4, the issue of remedies available to individuals during states of emergency has often been discussed. The Committee is satisfied that States parties generally understand that the right to habeas corpus and amparo should not be limited in situations of emergency. Furthermore, the Committee is of the view that the remedies provided in article 9, paragraphs 3 and 4, read in conjunction with article 2 are inherent to the Covenant as a whole. Having this in mind, the Committee believes that there is a considerable risk that the proposed draft third optional protocol might implicitly invite States parties to feel free to derogate from the provisions of article 9 of the Covenant during states of emergency if they do not ratify the proposed optional protocol. Thus, the protocol might have the undesirable effect of diminishing the protection of detained persons during states of emergency.

3. The Committee is also of the view that it would simply not be feasible to expect that all provisions of article 14 can remain fully in force in any kind of emergency. Thus, the inclusion of article 14 as such into the list of non-derogable provisions would not be appropriate.

4. In the light of the foregoing, the Committee considers it inadvisable to pursue the elaboration of a draft optional protocol to the Covenant with the aim of adding article 9, paragraphs 3 and 4, as well as article 14 to the list of non-derogable rights enumerated in article 4, paragraph 2, of the Covenant.

5. The Human Rights Committee requests that the foregoing comments and suggestions be brought to the attention of the Subcommission on Prevention of Discrimination and Protection of Minorities.

Notes

1/ Adopted by the Committee at its 1314th meeting (fiftieth session), on 6 April 1994.

ANNEX XII

List of documents issued during the reporting period

Reports of States parties

CCPR/C/32/Add.18	Second periodic report of Cyprus
CCPR/C/42/Add.13	Additional report of El Salvador
CCPR/C/46/Add.5	Second periodic report of Iceland
CCPR/C/51/Add.7/Corr.1	Second periodic report of Egypt - corrigendum
CCPR/C/51/Add.8	Second periodic report of El Salvador
CCPR/C/63/Add.2	Second periodic report of Togo
CCPR/C/68/Add.4	Initial report of Malta
CCPR/C/70/Add.1/Corr.1	Second periodic report of Japan - corrigendum
CCPR/C/70/Add.1/Corr.2	Second periodic report of Japan - corrigendum
CCPR/C/74/Add.1	Initial report of Slovenia
CCPR/C/75/Add.1	Second periodic report of Argentina
CCPR/C/76/Add.3	Third periodic report of Morocco
CCPR/C/76/Add.4	Third periodic report of Morocco - additional information
CCPR/C/81/Add.1	Initial report of Latvia
CCPR/C/81/Add.2	Initial report of Azerbaijan
CCPR/C/84/Add.1	Fourth periodic report of Tunisia
CCPR/C/98	Report submitted by Burundi pursuant to a special decision taken by the Committee

Comments of the Human Rights Committee on States parties' reports

CCPR/C/79/Add.26	Comments of the Human Rights Committee on States parties' reports - Iceland
CCPR/C/79/Add.27	Comments of the Human Rights Committee on States parties' reports - Norway
CCPR/C/79/Add.28	Comments of the Human Rights Committee on States parties' reports - Japan
CCPR/C/79/Add.29	Comments of the Human Rights Committee on States parties' reports - Malta

CCPR/C/79/Add.30	Comments of the Human Rights Committee on States parties' reports - Romania
CCPR/C/79/Add.31	Comments of the Human Rights Committee on States parties' reports - Costa Rica
CCPR/C/79/Add.32	Comments of the Human Rights Committee on States parties' reports - Mexico
CCPR/C/79/Add.33	Comments of the Human Rights Committee on States parties' reports - Cameroon
CCPR/C/79/Add.34	Comments of the Human Rights Committee on States parties' reports - El Salvador
CCPR/C/79/Add.35	Comments of the Human Rights Committee on States parties' reports - Jordan
CCPR/C/79/Add.36	Comments of the Human Rights Committee on States parties' reports - Togo
CCPR/C/79/Add.37	Comments of the Human Rights Committee on States parties' reports - Italy
CCPR/C/79/Add.38	Comments of the Human Rights Committee on States parties' reports - Azerbaijan
CCPR/C/79/Add.39	Comments of the Human Rights Committee on States parties' reports - Cyprus
CCPR/C/79/Add.40	Comments of the Human Rights Committee on States parties' reports - Slovenia
CCPR/C/79/Add.41	Comments of the Human Rights Committee on States parties' reports - Burundi

Other documents

CCPR/C/21/Rev.1/Add.4	General comments adopted under article 40, paragraph 4, of the International Covenant on Civil and Political Rights - General comment No. 22 (48) (art. 18)
CCPR/C/21/Rev.1/Add.5	General comments adopted under article 40, paragraph 4, of the International Covenant on Civil and Political Rights - General comment No. 23 (50) (art. 27)
CCPR/C/91	Provisional agenda and annotations (forty-ninth session)
CCPR/C/96	Provisional agenda and annotations (fiftieth session)
CCPR/C/97	Provisional agenda and annotations (fifty-first session)

CCPR/C/92	Consideration of initial reports submitted by States parties under article 40 of the Covenant due in 1994: note by the Secretary-General
CCPR/C/93	Consideration of second periodic reports submitted by States parties under article 40 of the Covenant due in 1994: note by the Secretary-General
CCPR/C/94	Consideration of third periodic reports submitted by States parties under article 40 of the Covenant due in 1994: note by the Secretary-General
CCPR/C/95	Consideration of fourth periodic reports submitted by States parties under article 40 of the Covenant due in 1994: note by the Secretary-General
CCPR/C/SR.1263-1291	Summary records of the forty-ninth session
CCPR/C/SR.1292-1319	Summary records of the fiftieth session
CCPR/C/SR.1320-1357	Summary records of the fifty-first session